

COMMISSION OF INQUIRY INTO THE
USE OF DRUGS AND BANNED PRACTICES
INTENDED TO INCREASE ATHLETIC PERFORMANCE

B E F O R E:

THE HONOURABLE MR. JUSTICE CHARLES LEONARD DUBIN

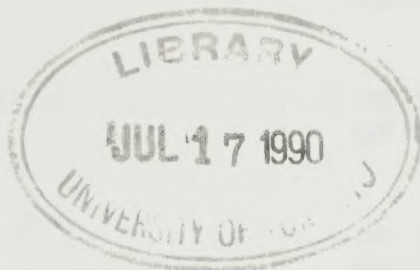
HEARING HELD AT 1235 BAY STREET,
2nd FLOOR, TORONTO, ONTARIO,
ON MONDAY, MAY 8, 1989

VOLUME 46

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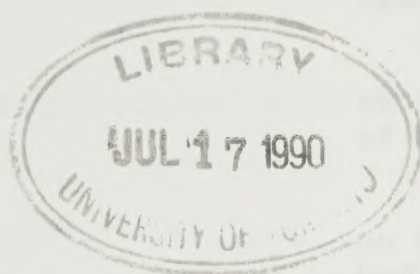
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	J. DePENCIER	on behalf of the Government of Canada
10	T. BARBER	on behalf of the Sport Medicine Council of Canada
	R. McCREATH	on behalf of the Canadian Olympic Association
	A. PRATT	on behalf of Charles Francis
15	E. FUTERMAN	on behalf of Ben Johnson
	D. SOOKRAM L. LEVINE	on behalf of Dr. M. G. Astaphan

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----Upon resuming

MR. FUTERMAN: Mr. Commissioner, before we start, may I introduce Andrea Davis of my office.

5 THE COMMISSIONER: Yes. Mr. Armstrong?

MR. ARMSTRONG: Yes, thank you, Mr. Commissioner.

Just before we start, there are a couple of things. First of all, in regard to the schedule this
10 week; we have scheduled this week's witnesses from Montreal, Vancouver, Saskatoon, Winnipeg, Nashville, Tennessee and Philadelphia.

And we have found, Ms. Chown, Mr. Nunn and I, that we are, if we are anything, we are not travel agents
15 and we have given our best guess at how long each witness is likely to be and we will be absolutely surprised beyond belief, first of all, if all of these people arrive exactly when they're supposed to arrive.

And, secondly, if each witness finishes being
20 questioned at the time that we have guessed.

So, it may be that during the course of this week there will be some gaps and we ask for your ---

THE COMMISSIONER: Fine. I understand.

MR. ARMSTRONG: ---indulgence and the
25 indulgence of our friends.

Then just before calling on Mr. Pound, may I say that he has had a long standing speaking engagement in Toronto today and we were able to take advantage of that, as was he, to be here with us this morning but his
5 speaking engagement, which involves the sports and the law and the Olympic movement, is at 12:30 downtown.

THE COMMISSIONER: Maybe you should go and hear him.

MR. ARMSTRONG: I think maybe we will except
10 that we may not be able to come up with the price of the lunch, so we'll stay here and work.

In any event, if we could organize our morning in such a way that we could get him away by about 12:15 and then come back perhaps a little early?

15 THE COMMISSIONER: Very well, thank you.

MR. ARMSTRONG: Then also, in regard to Mr. Pound, we are going to ask him some general questions about the IOC organization.

We are going to ask him some questions, of
20 course, about the events in Seoul surrounding the positive test of Ben Johnson.

And then we are going to ask him to update us as to where the IOC, in particular, is concerning doping, anti-doping policy, particularly surrounding the meetings
25 in Barcelona last week.

But as in the case of Mrs. Letheren, from the Canadian Olympic Association, we are going to invite Mr. Pound to come back towards the end of your deliberations to assist you and us and others as to what directions he
5 sees this whole issue going and what directions he might well recommend to you and this Commission in considering your recommendations.

So, just bearing that in mind, that we will

10 THE COMMISSIONER: I need all the help I can get from everybody, so....

MR. ARMSTRONG: Okay. So then, Mr. Richard Pound, please?

THE COMMISSIONER: Mr. Pound?

15 RICHARD WILLIAM DUNCAN POUND; Sworn

THE COMMISSIONER: All right, thank you.

20 MR. ARMSTRONG: First thing I'd like to do, Mr. Commissioner, if I may, is mark as our next exhibit the curriculum vitae of Mr. Pound.

THE REGISTRAR: That's 176, sir.

THE COMMISSIONER: Thank you.

25 ---EXHIBIT NO. 176: Curriculum Vitae of Richard Pound

MR. ARMSTRONG:

Q. All right, Mr. Pound, if we might just take a moment to cover some of the highlights of your C.V?

5 You are, of course, a lawyer and partner in the law firm of Stikeman, Elliot at their Montreal offices. Your academic and professional qualifications are all set out on the first page of your C.V. which include, not only the fact that you are a member of the Quebec and Ontario bars, but you are also a chartered
10 accountant and a member of the Order of Chartered Accountants of Quebec and the Institute of Chartered Accountants of Ontario, is that correct?

A. Yes.

15 Q. And then, as to your athletic background, looking at the page numbered two, the third page in, in this exhibit, under the heading 'Sports and Hobbies', you were the winner of the gold medal in the 110 yard freestyle swimming and two silver and one bronze medal at the 1962 Commonwealth Games in Australia, is that correct?

20 A. Yes.

Q. And then you were a double Olympic finalist in swimming in the Rome Olympic Games, a member of the Canadian swimming team at the Pan American Games in 1959, Canadian Provincial and Intercollegiate swimming
25 champion 1958 to 1962, and I assume all of that is correct

as is set out in your C.V?

A. Yes.

Q. Then looking, Mr. Pound, at your affiliation with the Olympic movement, it appears to have started back in 1968 where you became a director of the Canadian Olympic Association, am I right ---

A. Yes.

Q. ---at page 3? Then you held various positions with the Canadian Olympic Association, becoming its' president in 1977, a position which you held until 1982?

A. Yes.

Q. Then on the International Olympic Committee you were elected a member in 1978, elected to the Executive Board in 1983 and elected a Vice-President of the IOC in 1987, is that correct?

A. That's correct.

Q. And your various commission and committee responsibilities are also set out at page 3 under the heading "International Olympic Committee".

THE COMMISSIONER: Including the Chairman of the Television Negotiation Committee which I suspect is an important part of your responsibilities?

THE WITNESS: That's one of the more amusing ones.

THE COMMISSIONER: I see.

MR. ARMSTRONG:

5 Q. All right. Then -- fine. Now, what I'd like to do is ask you some questions about the Olympic organization.

First of all, can you tell us, who are the members of the IOC?

10 A. Well, the members of the International Olympic Committee are those persons chosen from around the world by the International Olympic Committee itself to be its representatives in the countries around the world.

15 At the present, I think we have somewhere around 92 members, active members and a few honorary members. It's a somewhat different situation than you normally have in international organizations in that in theory, at least, I am a representative of the International Olympic Committee in Canada rather than a Canadian representative to the International Olympic
20 Committee.

Q. And that obviously applies to all of the other 91 IOC members there? They're there as individuals, not as national representatives?

A. That is correct.

25 Q. And your appointment to the IOC as a

member is for how long?

A. I am one of the members that is subject to retirement at the age of 75. So I will be among us until 2017, if my calculation is correct.

5 Q. And there are some other members who prior to -- when was it, 1968?

A. 1966 was the first year that this applies. So, anybody elected prior to 1966 is a member for life.

10 THE COMMISSIONER: Has that been challenged under the charter yet, do you know, about age discrimination?

THE WITNESS: Not our charter, Mr. Commissioner. What does happens, as groups approach the
15 age of 75, they seem to feel younger and younger and think that that age ought to be increased.

THE COMMISSIONER: That's encouraging.

THE WITNESS: I'm looking forward to it.

20 MR. ARMSTRONG:

Q. Then, the 92 member body, does it meet on a regular basis and, if so, how often?

A. Yes. Our meetings of the International Olympic Committee as a whole are called sessions and we
25 have at least one per year and in the years in which there

are Olympic Games, summer and winter, we have a session prior to each of the Games. So that in the normal course, over an Olympiad, we would have five meetings.

5 Q. Now, you have been a member of the Executive Board of the International Olympic Committee since 1983. Can you just tell us how many members of the Executive Board are there and what is its structure?

10 A. At the present time, there are 11 members on the Executive Board which consists of the president, three vice-presidents who are elected for four year terms and seven members at large who are also elected for four year terms.

15 Q. You are one of the three vice-presidents. Are they designated first, second and third vice-presidents?

A. They're designated that way and it goes in order of your election. So that the first vice-president is the one who is elected the longest to go. I am presently the second vice-president.

20 Q. All right. And the first vice-president is who?

A. Is Prince Alexander de Merode of Belgium.

Q. And the third vice-president?

25 A. Is a judge of the International Court of Justice from Senegal whose name is Keba M'Baye.

Q. All right. Then I take it that the IOC organization has some kind of secretariat or civil service, as it were, and can you just tell us where is that located and how many people comprise that organization?

A. Our headquarters are in Lausanne in Switzerland. We have a secretariat there that employs about 60 people and we have an Olympic museum that employs another dozen or so. And we run an operation called Olympic Solidarity which disperses money to National Olympic Committees which employs another four. So, all tolled we're close to 80.

Q. All right. Your position as a member of the IOC and as a member of its executive, as its second vice-president, I take it, is a volunteer position?

A. Yes.

Q. You don't, obviously, get a salary and get paid?

A. No. I'm reimbursed expenses.

Q. All right. Now, we should perhaps just mention, in passing, that -- perhaps not really in passing but mention that we have one other Canadian who is a member of the IOC?

A. We do. A man from Toronto who is the senior member in Canada; his name is James Worrall.

Q. And he has been an IOC member for how long?

A. He was elected in 1967. And he was, prior to the Montreal Games, the first Canadian IOC member ever to get on to the executive board of the IOC.

Q. Now --

THE COMMISSIONER: Also is he assigned to represent Canada as you are? You are named to this position by the IOC, not as a Canadian, but having been on there you said you are delegated to represent Canada, is that how it works?

THE WITNESS: Well, the IOC looks for members in various countries, the larger and most important countries. Canada is a very important country within the Olympic movement because its now held the Olympic games twice and it's a big country to cover. So,, we look in the country for the member.

THE COMMISSIONER: Right.

THE WITNESS: And it is because I am Canadian, that I am appointed.

THE COMMISSIONER: What about Mr. Worrall, what position would he have qua Canada?

THE WITNESS: He and I would be exactly the same in the eyes of the IOC.

THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

Q. Then just in passing to give us perhaps a point of comparison, how many of the 92 members of the IOC would be from the United States?

5 A. Two.

Q. How many from the United Kingdom?

A. Two. Basically the major countries or countries which have hosted the Games in the past are entitled to a maximum of two members.

10 Q. Okay. And again just to follow up from the question of the Commissioner, understandably you and Mr. Worrall by virtue of the fact that you are Canadians with tremendous background in regard to the Olympic movement in the Canada, you would be looked to clearly as
15 somebody with a particular knowledge related to Canada, but as I have understood what you have told me in the past, you are still really a member at large, you are not specifically the Canadian representative, or have I missed that?

20 A. I think perhaps a bit. We look for members to represent us in various countries. And we have been chosen because we are Canadians.

Q. I see.

A. Were I to go and live in Bermuda, for
25 example, I would be expected in due course to resign as a

member so that we could appoint somebody who could do a better job representing the IOC in Canada than somebody who lived in Bermuda.

5 Q. Well, fine, I had missed the point a bit and I appreciate that clarification.

Now, looking at the IOC organization, you have a number of what are called commissions, which I understand in our understanding of things are like committees. Am I right?

10 A. Yes. I think perhaps if our organization had been called a committee to start with, what we now call commissions would have been called committees.

15 Q. All right. And how many approximately Commissions are there, do you know?

A. There must be a couple of dozen. If you have a directory, I have one here, I think I have given one, if you wanted to put it in to evidence, the Commissions and their makeup are listed in the book.

20 MR. ARMSTRONG: Perhaps, I can do that at the break and get those Commissions --

THE COMMISSIONER: Very good.

MR. ARMSTRONG: -- photocopied and do it then.

25

MR. ARMSTRONG:

Q. Now, you are presently chairman of a Commission called the New Sources of Financing Commission?

A. Yes.

5 Q. And just briefly tell us what is involved in that, please.

A. Well, that's the Commission that is responsible for virtually all of the income of the International Olympic Committee. It deals with
10 television, sponsorship, licensing, coin programs, any means by which the IOC raises money.

Q. All right.

THE COMMISSIONER: Is that the sole source of revenue or do countries contribute to the IOC?

15 THE WITNESS: No, countries do not contribute. We raise our own money principally from television and sponsorship.

THE COMMISSIONER: So, member countries who participate don't contribute to the IOC financially?

20 THE WITNESS: No, not at all. In fact, it's the other way around. We provide quite a lot of assistance to the countries that do participate.

THE COMMISSIONER: I understand.

25

MR. ARMSTRONG:

Q. What percentage of the IOC revenue would come from television, approximately?

5 A. Historically I would say about 90 percent.

Q. Yes.

10 A. We have recognized the obvious dangers that that percentage represents. So, we are working on trying to broaden the base, but historically it would be 90 percent.

Q. And the funding that you say you provide to other countries, that would be funding would it to defer travel expenses and living expenses on teams that come to the Olympic Games?

15 A. With specific application to the Olympic Games, yes. We pay for a certain number of athletes and officials. And we pay for their stay in the village, but we also have a number of programs that go toward paying for the expenses of referees and judges and
20 for training.

Q. I see. All right. Just while we are on the subject of funding, you are still, of course, a Director of the Canadian Olympic Association, a past president of the Canadian Olympic Association, can you
25 just help us as to what the sources of funds are for the

Canadian Olympic Association, how does it raise its money?

A. We have a number of ways in which we try to do that. It's a combination of private sector and public sector financing. I think in the last quadrennial period, the Canadian Olympic Association on a budget of say \$16 million was supposed to get about three from the Federal Government, of which about two was paid and a million withheld. The balance is raised through a combination of sponsor programs, a provincially-licenced lottery that we run, and assorted licencing programs.

THE COMMISSIONER: Does the IOC give any funding to the COA?

THE WITNESS: Not as such, Mr. Commissioner. The COA, as one of 167 National Olympic Committees, is entitled to financial support under the programs that we have, but it's not a specific direction of funds to the COA. The COA would get the normal support for sending athletes and coaches to the Games.

THE COMMISSIONER: Yes.

THE WITNESS: And --

THE COMMISSIONER: You said something about training programs; you said something for training.

THE WITNESS: What we do is we take all of the television money, and when you get down to the share that exists after the organizing committee has taken its

share, we divide the remaining pie up into three parts. One part for the IOC, one part for the International Federations, and the third part for the National Olympic Committees.

5 THE COMMISSIONER: Thank you.

THE WITNESS: And those funds go into a program that we call Olympic Solidarity. And that is the -- that is further divided up into the continental associations and then each of the National Olympic
10 Committees can have access to it to run clinics in coaching or in high performance sport, whatever it may be, or in how to organize an Olympic committee and how to raise your own funds that sort of thing. It's quite an extensive program.

15 THE COMMISSIONER: I am taking you off your course, you go ahead, Mr. Armstrong.

MR. ARMSTRONG: No, not at all.

MR. ARMSTRONG:

20 Q. Then just going back to the funding in regard to the COA for a moment, you said that in -- was it in the year 1988 there was \$3 million earmarked from the Federal Government?

A. Yes.

25 Q. You said \$2 million was paid, one

million was withheld. Is there --

THE COMMISSIONER: Would that be in relation to any particular event? Would that be because of Calgary?

5 THE WITNESS: It related to Seoul, Mr. Commissioner, and what we have done with the Federal Government is to negotiate a sharing of certain expenses related to the Game's missions because the government likes to have a profile in relation to Canadian teams.

10 About a month or so before we were leaving for Seoul, the government told us that they didn't have enough money to pay the remaining approximately million dollars of their commitment for the team. And we have been negotiating with them ever since to try and make that
15 right.

Our view was that they made a commitment and that if we had made a commitment, we would have honoured it, they should do the same. The ball was still up in the air.

20 THE COMMISSIONER: Okay.

MR. ARMSTRONG:

Q. Now, is there any umbrella organization for the various National Olympic Organizations. Does
25 the -- how do the -- does the COA, the USOC, the British

Olympic Committee and so on, do they at any time come together in session, and do they in any way relate to the IOC?

5 A. It is not without its complications, Mr. Armstrong, but basically there are a couple of levels of organizations of the National Olympic Committees.

 The first on a worldwide basis is called the Association of National Olympic Committees and it runs under the initials ANOC, in the English version.

10 This is an organization which gets together probably once a year to meet and provide -- it really provides a forum for the National Olympic Committees to deal with issues that are of general concern.

 The International Olympic Committee Executive Board meets with that organization every second 15 year on a regular basis.

 There are other organizations which are of NOCs which take place on a continental basis. So that in the Americas, for example, there is the Pan American 20 Sports Organization, PASO. It consists of the 37 or 38 NOCs in the Americas. And it meets once a year. And it, for example, is responsible for the organization of the Pan-American Games on a four-year cycle.

 Q. I see. Now, it would be useful for me 25 just to ask you about the Pan-American Games. It is

clear, I think we understand, that the IOC sponsors, runs the Olympics Games each four years. Now, what is its precise relationship, if any, to the Pan-American Games because we have heard that there at least is some relationship and I don't think we are necessarily entirely clear as to just what the relationship is between the Olympic organization and the Pan-American Games.

A. Well, over the years, the International Olympic Committee has encouraged the formation of these continental associations of National Olympic Committees. So that just to give you some background for the -- PASO is the North American or the Americas organization. There is a similar organization in Europe, in Africa, in Asia, and in Oceania.

And we have urged those continental organizations to organize games in their parts of the world which we recognize would be of a lesser quality than the Olympic Games, but nevertheless it enables athletes from those countries who might not otherwise be able to compete at an Olympic level or even afford to get there to have games that are modelled on the Olympic style.

And once we have recognized the continental association of the National Olympic Committees, we grant a form of patronage from the IOC to the Pan American Games or the African games whatever it may be. And we allow

them to basically use a lot of the Olympic symbolism, to copy to some degree the Olympic ceremony, and the ceremonial aspects of the Games and so forth.

5 And we found that to be quite a useful way of raising the general level of sport around the world.

Q. All right.

A. But we don't take any part in the actively running the games. That's left to the particular continental association.

10 THE COMMISSIONER: Continental Olympic association.

THE WITNESS: The continental association of NOCs, yes.

THE COMMISSIONER: Yes.

15 MR. ARMSTRONG:

Q. So, as in the case of --

20 THE COMMISSIONER: The Pan-Am Games, it would be the Canadian Olympic Association which would be directly involved?

THE WITNESS: That's right.

THE COMMISSIONER: Within the umbrella of this national, this continental group?

25 THE WITNESS: It's a very -- the parallel between bidding for Pan-American Games and Olympic Games,

aside from the peculiar Latin politics of it all, is very similar to the Olympics. And that would be if Canada wanted to host, for example, the Pan-American Games, the Canadian Olympic Association and the city would apply to PASO for the mandate.

THE COMMISSIONER: Not to the IOC?

THE WITNESS: But Not to the IOC.

THE COMMISSIONER: I see.

THE WITNESS: Whereas Toronto in its bid for 1996 will apply directly to the IOC.

THE COMMISSIONER: To the IOC.

MR. ARMSTRONG:

Q. All right. Now, we have heard a lot during the course of these hearings about the IFs, or the International Federations, and in particular organizations such as the IAAF, the international governing body of track and field.

What relationship, if any, is there between the IOC on the one hand and an organization such as the IAAF and other international federations on the other hand?

A. Well, there is no direct formal links, Mr. Armstrong. Each each of the three pillars of the Olympic movement is essentially autonomous within it's own

area. And the international federations are entirely responsible for the technical rules and the technical conduct of their sports. We have quite a lot of areas.

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THE COMMISSIONER: What's the third color?

THE WITNESS: It would be the national Olympic committees, if you think of it as a pyramid, Mr. Commissioner.

5 THE COMMISSIONER: The IOC and the international associations and then the national COAs, the national Olympic associations?

10 THE WITNESS: Exactly. So we have a number of mechanisms both on an ad hoc basis and a regular basis--

THE COMMISSIONER: If this issue is track and field, then as far as the IOC is concerned, you look directly to the international association?

15 THE WITNESS: That would be so. For example, if the track and field wanted to change the 100 metres to 106 metres, that would be their call. So we have a number of areas in which we have regular contact, aside from, as I say, the ad hoc situations. We work together on organizing committees. We have a major
20 commission that the IOC has created called the Commission for the Olympic Movement where we have basically equal representation from the IOC, the international federations and the national Olympic committees.

25 On our commissions that deal with eligibility, for example, or the program on the Olympic

Games, we make sure that we have representatives selected by the international federation so that we get their input and we minimize the risk of heading off in some direction that may not make sense for the sport governing bodies.

5 And then we--let me carry on.

We have encouraged the formation of associations, not unlike with the national Olympic committees, of the Olympic international federations and we have an association of summer Olympic international federations and we have an association of winter Olympic international federations. Our executive board meets at least once a year with each of those organizations to discuss matters of mutual interest.

10

15 MR. ARMSTRONG:

Q. All right. I wanted to ask you about eligibility to participate in an Olympic Games, and I think sometimes there still is some confusion over the position of a professional athlete, and I guess there is some confusion over who is a professional athlete, but what about a professional athlete and his or her participation in the Olympics? What are the rules?

20

A. Well, this is a problem that started I think in about 1894 and we have been wrestling with it ever since that time. We started off with the

25

philosophical basis that one had to be an amateur in order to participate in the Olympic Games, and after trying to define amateur for about 75 years, somebody had the bright idea that maybe we should get away from that and simply say as long as you weren't a professional, you could compete which got us into the same problem.

And we are now at the stage where we have said we are prepared to accept as eligible for Olympic competition any athlete who is eligible under the rules of his or her international federation for participation in the world championships. Now that essentially leaves it up to the international federations to decide which is the most appropriate direction for them, and you have a full range from tennis at one extreme, where they don't differentiate anymore between amateur and professional, to rowing, where it's amateur and will always be amateur.

So we figure that each international federation has its own organization through the world. They deal with the practice of that particular sport 365 days a year whereas we see the kids for a month every four years. Our feeling was finally after thinking about it that we should let the sports tell us how the sports has developed, and as long as somebody's eligible for their world championships, we say fine, you can come to the Olympics too.

Q. And that role, when did it come into effect?

A. It has been creeping into effect. I would say the final hurdle was allowing tennis into the games in Seoul in 1988 after an absence since 1924 on an experimental basis. That meant anybody who follows this, it was a done deal but we went through the results of Seoul and analyzed how the tournament went, how the players behaved, all of those things that were concerns on the minds of some of the traditionalists and have concluded that it was very successful and that we hope tennis will continue into the future. So I think the philosophical basis has now been stated and is pretty well accepted.

THE COMMISSIONER: You're responsible for both the winter games and the summer games, aren't you?

THE WITNESS: That's correct.

MR. ARMSTRONG:

Q. I take it that at the same end of the spectrum that you find tennis, ice hockey is also there because it would seem that now clearly the world championships in hockey include the National Hockey League players so far as certainly Canada and the United States are concerned, and some of the Scandinavian countries, so

the rule I take it obtains that NHL players can participate on Canada's national Olympic team?

A. That's right. They are eligible to compete. Eligibility is one-half of the problem,
5 availability is the other.

Q. Yes.

A. It's very hard to spring some of these players loose for Olympic competition in the middle of an active hockey season. I think we will find the same
10 trouble with soccer. We continue to run into that. The International Football Federation doesn't want to have its best players in the Olympics.

Q. Why is that?

A. I think they are worried about
15 protecting the World Cup which occurs on the--

THE COMMISSIONER: But they are eligible?

THE WITNESS: They are eligible. In fact, we're trying to encourage them to use their best players to make the Olympic tournament as good as the World Cup.
20 They are somewhat neurotic about that.

MR. ARMSTRONG:

Q. I see. So I take it what you are clearly saying is those involved in soccer or football
25 regard at the moment, the organization of it regard at the

moment their premier event as being the World Cup of soccer every four years as opposed to participation in the Olympic Games?

A. That's right.

5 Q. Now, let me just follow-up from the eligibility so far as the professional athlete is concerned, just some general questions about team selections, selection criteria and so on. Mrs. Letheren when she was here last week told us how the Canadian team
10 was selected for both the Seoul and Calgary games, what the selection criteria were for those two teams. What input, if any, does the IOC have in setting general criteria for participation, in particular Olympic events?

A. That starts right from the selection of
15 these sports that will be on the program of the Olympic Games. We have a series of steps we go through in evaluating any sport that wants to be on the program or which is on and wants to stay on. The IOC makes that decision after consultation with the various international
20 federations and after a survey of the national Olympic committees to see how popular this sport is around the world. So that's first and foremost. We also negotiate and ultimately decide in the event of a failure of negotiations which disciplines of each sport will be on
25 the program and which events.

Once you've got to that stage, depending upon the sport, we negotiate quotas, maximum quotas of -- for example, in shooting I think the agreement we have reached with the international federation is that
5 regardless of the number of events and regardless of the mix between male and female competitors, there will not be more than 510 shooters at the games.

We have done the same thing with other federations such as swimming and track and field to get
10 some kind of a handle on the maximum teams that will be permitted simply because as the games get bigger and bigger, it's tougher and tougher for the organizing committees to plan the Olympic villages. So we are involved in all aspects of that. Some of the sports do
15 have their own rules which would be tougher than ours, and they set, for example, if you take weightlifting, in order to qualify for an Olympic tournament, you have to have achieved a certain level of success based on either previous years, world championships or the previous
20 Olympic Games. I've forgotten the details, and unless you can do that, even if you're the best in your own country, you can't get on to--

THE COMMISSIONER: That's interesting, but that's set down by the International Weightlifter's
25 Association.

THE WITNESS: That's right.

THE COMMISSIONER: Not by the Olympics?

THE WITNESS: In this case not by the Olympics.

5 THE COMMISSIONER: Not by the IOC?

THE WITNESS: No, we agree with it, but they've set it, and my guess is that their decision on that would make for a smaller field--

10 THE COMMISSIONER: That applies to most of the disciplines I would think that we heard.

THE WITNESS: To some. With 30 sports, it's hard to give you one liner that covers everything.

MR. ARMSTRONG:

15 Q. Does the IOC in any particular situation, does it actually set a standard or is it simply involved in negotiation with the IAAF? For example, we take track and field. You sit down with the IAAF and they say all right, for the 100 metres, here are the criteria.
20 I mean, I appreciate you wouldn't do it for a particular event, but here are the criteria and you accept them or reject them?

A. No, on that we would simply say that's your business. What we want to agree with you, track and
25 field, is what events will there be on the program, how

many days will it take to run the track and field competition and what is the maximum size of any team that will be there.

THE COMMISSIONER: Let's take high jumping.
5 Who sets the standard for a Canadian athlete participating in the high jumps in the Olympics?

THE WITNESS: For a Canadian participation, that would be the Canadian Olympic Association. We would have available to us in Canada the suggested standard that
10 the IAAF thinks would be appropriate to get into the final or whatever. Let's say it's 2.2 metres.

THE COMMISSIONER: Right.

THE WITNESS: We may look at that and say 2.2 metres would have you finish in the bottom quarter of
15 the field based on results. So that as far as Canada is concerned, we would not be prepared to take you. I think Mrs. Letheren described the combination of the top half top 16.

THE COMMISSIONER: You make that decision
20 then?

THE WITNESS: Canada would say even though we might and could under the IAAF rules enter a competitor in that event, we choose not to because we do not think the competitor is sufficiently qualified.

25 THE COMMISSIONER: No, I think you said

we'd take the one you said would be in the bottom quarter.
I think you said we. I don't know which hat you're
wearing.

5 THE WITNESS: I was responding to your
question about the Canadian selection. This would be the
Canadian Olympic Association.

THE COMMISSIONER: It would be the COA that
would say that?

THE WITNESS: Yes. The IOC would not care.

10 THE COMMISSIONER: And would the
International Track and Field Association have any say on
that?

15 THE WITNESS: Well, they are the ones that
determine the standard and all they would say is you can
enter anybody. I mean, even if a person can only jump one
metre, you're entitled to enter that person, but if you
want to enter more than one, each of the two must beat the
specified standard, and that's just in an effort to say
yes, we are universal but really, we do want people who
20 are prepared for competition.

THE COMMISSIONER: All right.

MR. ARMSTRONG:

Q. Then I wanted to go back to--

25 THE COMMISSIONER: Well, I guess the idea

that if you're going to let one compete, even though they are not of likely medal standards, at least that country can represent that event by one person. Is that the idea?

5 THE WITNESS: That's the idea, and you see it -- there are a lot of small countries that enter athletes in a 10,000 metre running race, and long after the good athletes are finished, you have still got this poor person out there running around, but that's their--

10 THE COMMISSIONER: He is my kind of athlete then.

THE WITNESS: But you have to be one of a kind.

MR. ARMSTRONG:

15 Q. Okay. Then I was going to leave that subject matter for the moment, go back to the IOC organization with particular reference to your various commissions, and I wanted to ask you about the IOC Medical Commission which is a committee or commission that has
20 been featured from time to time in the evidence here by virtue of the particular interest that we espouse. First of all, when was it established and why was it established? Can you help us there, Mr. Pound, please?

25 A. I think the first games in respect of which the commission was active would be the 1968 games,

and I believe and this would be subject to a check, if it's of interest to the Commission. I believe that the original impetus to form a medical commission was the death of a Danish cyclist during the games in Rome in 1960. He had taken some kind of stimulant, and the combination of heat and dehydration and the stimulant produced a fatal result.

That led to concern in the IOC about matters medical in general, and eventually to the formation of a medical commission which has four or five subgroups, and if you're going to introduce the makeup of the commissions at the break, you will be able to see the various subgroups. There is a doping and biochemical or biochemistry subgroup which I think focuses more on the subject matter of this Commission. It has been very active since 1968 and, in fact, has been the leading organization of its type in the world in the fight against drug use in sport.

Q. Now the doping and biochemistry sub-commission, as we'll see from the material, includes Professor Arnold Beckett, or did, and certainly in 1988 included Professor Arnold Beckett from the United Kingdom, Professor Manfred Donike from West Germany and Professor Robert Dugal from Montreal and two other representatives, and we heard a fair amount about its work.

One of the things that we have heard is the work concerning the accreditation of what I call Olympic laboratories, and that probably is not a proper designation to say Olympic laboratories, but we know there are certain laboratories that receive Olympic accreditation as a result of the work of this committee. Can you just sketch in the background that for us? Generally how many laboratories are there, how do they become accredited and why has that developed as it has?

A. I'm not sure of the exact number, but I would say it's in the range of about 20. The idea is to have a network of laboratories around the world whose technical standards are beyond reproach so as to have a possibility of testing for drug use in sport. Our commission conducts pretty rigorous examinations of every lab that applies to get accreditation, and there are ongoing tests that are provided for each laboratory in order to make sure that its technology and its personnel keep up to the standards that we look for.

THE COMMISSIONER: Who is the examiner?

THE WITNESS: The examiners would be Professor Donike and other members of the IOC medical--or sub-commission on doping and biochemistry.

THE COMMISSIONER: Does he have his own lab, Dr. Donike as well?

THE WITNESS: He is a professor in Koln, I believe, and he is in charge of a lab that is in Koln that is very expert in this area.

5 MR. ARMSTRONG:

Q. And as well his lab is, of course, an accredited lab?

A. His lab is an accredited lab.

10 THE COMMISSIONER: And Dr. Dugal has an accredited lab in Montreal, I understand?

THE WITNESS: Yes, he does.

MR. ARMSTRONG:

15 Q. Now, I don't know if this is not a fair question, then say so, but there has been some recent publicity about the fact that one of the two Canadian labs has, at least for a brief period of time, lost its accreditation in Calgary, the Foothills lab, and can you help us as to what your understanding is of the reason for
20 its having lost its accreditation?

25

A. My understanding is that as part of the regular program of ongoing assessment of the laboratories, a number of samples were sent to the lab in Calgary, as they are to other labs around the world, in order to test the competence of the lab.

What happened in the case of Calgary is that they detected the right substances in the sense that they properly analyzed the samples that were given to them but the documentation of those results was not sufficiently clear or precise to enable them to really stand up against the scrutiny that might come from a man of your ability representing somebody affected by those samples.

So, they've said until we are satisfied with the quality of the supporting documentation that go with your results, we're withdrawing the accreditation.

My guess is that it will be temporary, that Calgary is a very fine laboratory, and that the reason for the weakness in the supporting documentation is probably a matter of miscommunication rather than the scientific ability or integrity of the lab.

Q. All Right. Then, Mr. Pound, I wanted to turn your attention to the Seoul Games and, in particular, the events of September 24th through September 26th involving the positive test of Mr. Ben Johnson in regard to the anabolic steroid, stanozolol, and, of course, it is

now well documented not only on the public record beyond this Commission, but now well documented on the public record here of your participation in those events.

5 But, your participation was of such significance that I think it would be helpful if we had the benefit of hearing firsthand, from you, what transpired in Seoul and I think, subject to questions from other counsel and the views of the Commissioner, it might be helpful if we went to about noon hour or so on Monday 10 the 26th of September when you first became aware that there was likely a positive result for Ben Johnson and is that an appropriate place to start for you?

A. Sure. I first learned about this from President Samaranch. We had organized a luncheon in his 15 suite for one of our sponsors. I had been out watching, I think diving, or some other event in any case, and came up to the suite where the guests had already arrived and as I worked around the room, I ran into the president who said, "Dick, have you heard the news?" And I said, "I don't 20 know; I've been out at the diving. What news are you talking about?" He said, "Is terrible." I said, "What's terrible? What's happened?" He said, "Come with me." So, we went into his room and he said, "Is Ben Johnson. He's tested positive." I said, "Ah, no."

25 Anyway, here we are with this sponsor and we

have to sit through this smiley lunch knowing that everything is turning into ashes around this event.

But, as soon as we could, we got out of the lunch. I went down to my room to call Carol Anne Letheren, found a message from her and so I returned her call and she said, "Hello" and I said, "I've heard" and she said, "What are we going to do?" And I said, "Well, why don't we sit down and just go through what has happened and find out where we stand?" And where did we want to do it?

I said, "Maybe one advantage of my being in the Shilla Hotel is that I have a suite and we can get everybody out of the village where there'll be quite a lot of activity."

So, Carol Anne and Bill Stanish, who was the chief medical officer, and assorted others who came in at various times, came down to my room in the Shilla.

We were able to find Jim Worrall, who was the other IOC member, and Roger Jackson, who is the president of the COA, and the first part of the discussion was just to say, what's happened? What on earth are we facing here, which was -- and I think it's reasonably thoroughly covered by Mrs. Letheren -- that about 1:45 in the morning they got a letter saying -- signed by the Prince de Merode saying, your athlete, Johnson, has tested positive for a

prohibited substance. This is the A sample -- and you should understand in the IOC there is no positive test or positive result until both the A and B have been analyzed.

THE COMMISSIONER: I think that's important.

5 I think it's sometimes misunderstood. Someone misunderstood last week, that unless the B sample confirms the A sample, there is no positive finding.

10 THE WITNESS: That's right. And that's very important because you probably saw that the British got themselves into a dreadful mess because there was a positive A sample and they rushed around confessing to everything and it turned out that the test was not positive after all. So anyway...

15 THE COMMISSIONER: We had an example last week of an indication of an A sample and it turned out there was no B sample at all and yet it was reported as if there had been a positive finding which is very unfortunate.

20 THE WITNESS: It's very unfortunate and it's difficult to -- when you get into the pressurized conditions that surround an Olympics to keep this stuff confidential until it's time.

25 But in any event, so we sat around and they said, you know, we -- we're told that the B sample would be analyzed at ten in the morning and we went over there, we were given a chance to describe --

THE COMMISSIONER: I'm sorry, they're telling this story now, are they?

THE WITNESS: They're now telling me and we're all trying to see -- we haven't yet decided what to do.
5 We're just trying to find out what has happened.

THE COMMISSIONER: So, they explained, they went over for the B sample?

THE WITNESS: Right. At that time they met with Dr. Park and I think Doctors Beckett and Donike who
10 said, 'Are there any medications which your man is on that you want to describe to us?' which they did, including his bottle of sarsparilla.

They said, 'What is the substance that you've found?' And they said, 'You tell us everything you think
15 we should know so that we know what to look for when we're doing for the B analysis and once you've finished that, then we'll tell you what it is.'

And the reason for that is because if you tell them beforehand, you don't always get the right answers
20 about the medication that the athlete is on.

So, at the end of the representations and, as the B sample was being processed, my understanding is that they told him that the substance was actually the
metabolites of stanozolol. And while that second test,
25 which takes about 8 or 9 hours, was going on, we were

meeting in my room and I think they got there around 2:30 or 3 o'clock in the afternoon.

MR. ARMSTRONG:

5 Q. All right. Now, could I just interrupt you there to get the picture as to who was at the meeting. There was, as you mentioned, Carol Anne Letheren, Roger Jackson, the president of the COA, Jim Worrall, the other IOC member and who else was in your suite?

10 A. Bill Stanish, who was the chief medical officer, and at various times, just so you get the full cast of characters, Don Wilson who was an RCMP officer assigned to the team for security was there. A chap called Dave Lyon who was the team leader in athletics.
15 Charlie Francis was there through most of the time. Diane Clement appeared at one stage or another.

Q. She was another one of the team leaders for athletics?

A. She was the other team leader for
20 athletics. Waldemar Matuszewski, if I have the pronunciation right, who is a trainer.

THE COMMISSIONER: Matuszewski.

MR. ARMSTRONG:

25 Q. Matuszewski?

A. Matuszewski was there and Ben Johnson himself appeared at....

THE COMMISSIONER: This is at various times? They're not there all together.

5 THE WITNESS: They're not all there throughout, Mr. Commissioner, although basically once they arrived, they tended to stay.

THE COMMISSIONER: I see.

10 THE WITNESS: So we had a room full of them. I think that represents who was there at various times.

MR. ARMSTRONG:

15 Q. That's the cast of characters, as it were then. Why don't you just take us through the chronology as the meeting developed?

20 A. All right. At this point, we recognized that there was an opportunity for the Canadian delegation to appear in front of the Medical Commission at ten o'clock that evening which is the regular time that the Medical Commission meets after the events are over to speak to the issue.

25 The National Olympic Committee was entitled to be there, as was the athlete and the coach and basically the choice was up to us. And we talked about what we could do to appear there.

Carol Anne Letheren, as Chef de Mission, asked me if I would represent the delegation on that occasion and I said I would and that was agreed to by everybody there, that I would present whatever case we had to the Medical Commission.

At that point, it was possible to shape the discussion a little bit because then it was my job to try and find out as much as I could in order to put forward a defence.

And I started with Charlie Francis and I said "Charlie, is he on anything? We've got to know."

"No, he's not on anything."

I said, "You're sure?" I said, "They don't usually screw up these tests and if the A sample is positive, it's 99.9 per cent sure that the B sample will be positive."

"Nothing. He's not on anything. I don't understand it."

Okay. Then I said to Bill Stanish, who is the Chief Medical Officer and everyone was there, everyone could hear the questions, so if they had input, they could give it.

I said, "Do we challenge the scientific validity of the test? Are you in any position to say or even suggest that the analysis is faulty, that there was

no stanozolol, no metabolites?"

And he said, "No, I'm not."

I said, "Fine. Are we -- do you want to challenge the validity of the testing procedures, the integrity of the testing procedures?"

And they said, after some discussion, no. Basically, Ben provided the sample under conditions that were appropriate and both Ben and two representatives signed off on the sample saying that it had been properly collected and sealed and so forth. I forgot who they were. I think Waldemar --

Q. Well, in fact, I think, as it turns out, there was Ben who signed off, Ben Johnson who signed off and Waldemar. And they may have signed off on some other sheet but we've had submitted in evidence here their certificate.

THE COMMISSIONER: They also checked when they went to get the B sample, remember? Dr. Stanish told us about that. They examined the B sample as well.

THE WITNESS: Okay. Well, I can't speak to that, other than they said, "We signed off and there was no concern at that point."

So, I said, "Well, all right. Then we're left with kind of an uphill struggle here which is basically that his -- he was given a substance unknowingly," and

they said, "Yes, either before or after the race."

I said, "Well, listen, let me tell you, if it's before the race, we're dead meat. Nobody is going to accept that that is plausible. So, your only chance is to say that it was done after the race. If you ran the race filled up with stanozolol, no matter how you got it, I mean, you're responsible for your own conduct."

MR. ARMSTRONG:

Q. All right. Can I just interrupt you there? You say that if it was before the meet, you're in trouble or dead meat, as you put it, or dead beat, as you put it, why is that? I mean, suppose you generated some -- and I don't mean it quite the way it's sounding -- suppose some evidence became available that two days before the meet somebody did give Ben Johnson something?

I mean, we don't have any evidence of that and that's not the situation. But, if that turned out to be the situation, why is it irrelevant as to what happened before the meet?

A. It's my assessment that the Medical Commission would not accept that as an extenuating circumstance. It's too easy to generate stories of that nature to explain the presence of a lot of these drugs.

So, just in my view, that was a non-starter.

Q. A waste of time?

A. A complete waste of time.

Q. I guess, as you put it, you really answered the question that I asked before I put it that the IOC takes the position that before you get into the blocks or before you start shooting, or whatever the event is, you're responsible for your own conduct?

A. That's right.

Q. All right. I'm sorry, I interrupted you.

A. So, we were then left with the position of there had to be some kind of administration of the substance after Ben ran but before he provided the sample. And that led us off into a lengthy exploration of the possibility that this could happen, just scientifically.

And one of the questions I asked to Stanish was, I said, "Look, we're going up to speak at ten o'clock tonight to some of the foremost biochemists in the world. And if I'm there trying to say that at 2:30 in the afternoon, after a race, you ingest some stanozolol unknowingly, that by four o'clock, or whenever it was that the urine sample was provided, we're already at metabolites of the drug, does that make the slightest bit of sense?

And the feeling was rather equivocal on that. Stanish, first of all, said he's not a -- that's not his

field.

Q. He told us that. He's not a biochemist?

A. He's an orthopod, I think. He said,
"But, you know, with the metabolism that one would have
5 after winning the gold medal in the 100 metres in the
Olympics and setting a world record that is beyond belief
and the general excitement of all of that, it's not
impossible that this could happen. Not impossible."

10 Well, all right, let's then -- "Charlie, what
about you? What's your view on this?"

"Well," he said, "I don't understand it," he
said. He said, "I'd never give my guy stanozolol. It
stiffens them up. I want my guy loose when he's running
100 metres. I don't want him all tight. That's not the
15 kind of thing I would do."

And then he had a long explanation of which
you may or may not have gone through with him in his
evidence as to how, comparing with different people in the
coaching business, the use of these steroids, which ones
20 you use during which purpose and how....

THE COMMISSIONER: Well, did he indicate that
Mr. Johnson was on another steroid but not stanozolol?

THE WITNESS: He didn't really say that. He
simply said, 'I wouldn't give him this', he said, 'because
25 we do all our work at speed. We do sort of high pressure

work and stanozolol just doesn't work for that.' He said,
'A lot of people use it to build up bulk and strength
during a training period but not during a competition
period and my methods are quite different and we've
5 discussed the properties of various compounds at coaching
clinics that have been held in the German Democratic
Republic and elsewhere.'

And he said, 'Stanozolol is just not the one I
would give him. It doesn't make sense.' And he said,
10 'That's what leads me to think and urge upon you that it
must be sabotage because (a) he's not on anything, and
(b), even if he were to be on something, it would not be
stanozolol.'

15 MR. ARMSTRONG:

Q. So, just let me stop you there. I mean,
you were working on the clear premise that not only was he
not on stanozolol, he was not on anything else of a
prohibited or banned nature?

20 A. That's what was said to us.

Q. Yes.

A. You're in the business. You know what
happens when all of a sudden you have a client -- the
client will say almost anything ---

25 Q. Not my clients.

A. ---in preparation for the hearing. But, they were, I mean at this point, the roof had come down around him.

THE COMMISSIONER: Did you speak to Mr. Johnson about it -- did you ever speak to Mr. Johnson about this? So far you've only discussed it with Mr. Francis.

THE WITNESS: Johnson is not there at this point.

10 THE COMMISSIONER: I see, all right.

THE WITNESS: So, he said, it just -- I mean, that's just not the thing I give him.

MR. ARMSTRONG:

15 Q. Right?

A. Well, all right then. We said, "Let's look at the possibility of sabotage," and I must say, as a lawyer, you know, pushing a rope uphill is not much fun but that's all we had left. That was the only explanation that was consistent with the position that he hadn't taken anything at all.

20 Q. All right. And so I take it then what happened, and this has been well documented here, that you then got into a discussion about what the possibilities may have been of there being some stanozolol injected into

25

Ben Johnson's system in some way in that time period, that he found himself between the end of the 100 metres and the providing of his urine sample, which was a period of about, I guess, upwards of an hour and a half?

5 A. I would say it's at least that. That's one of the things we tried to do was to put together a chronology of what happened from the time of the final and we got a rough -- a rough picture of what that was and we tried to identify it because we were going to have to
10 produce evidence of it, or at least be prepared to produce evidence, of opportunities for the administration, the unknowing administration of this compound.

 And I don't know -- I mean, if you're satisfied with the evidence you have now, I won't go
15 through the chronology or if you want to hear my reconstruction of it?

 Q. Leave it to others, but I don't think it's necessary to go through one more time the so-called stranger in the doping control room and the various
20 positions that he may or may not have been in because we have been through it in detail and we, as counsel, have made it clear that we are satisfied that the investigation both here and elsewhere has led to the conclusion that so far as the sabotage theory and the stranger in the doping
25 control room is concerned, that we don't think this

Commission could profit by proceeding further with that theory.

THE COMMISSIONER: This is the one you pursued, I guess? This was your basis for your appeal, I gather, was it?

THE WITNESS: It was ---

THE COMMISSIONER: We've heard already ---

THE WITNESS: Ultimately, it was the basis of the appeal. I mean, the generalized basis was that -- that, at this time, for this event, because of the excitement, because of the fact that it was the first final of the day, because of all of the hoopla surrounding the men's 100 metres and the Johnson/Lewis duel, that there was a breakdown in the control procedures ---

THE COMMISSIONER: I see.

THE WITNESS: ---in the doping area, such that the Medical Commission should ask itself whether it's really 100 per cent satisfied that the controls were such that they can rely upon the sample. And we had variations on that theme and I can go, if you're interested in the argument as presented, I can certainly doing it.

But the final element of that, Mr. Commissioner, was to say, with a great deal of reluctance because the way it was being constructed on Johnson's behalf, was that there was a sabotage and that it --

there was a possible link to Carl Lewis.

I had said a number of things, one of which was that they should not say that because they certainly couldn't prove it and that they would be exposing
5 themselves to considerable potential damages if they were to make that kind of an allegation and that they should not say it.

THE COMMISSIONER: Because you had no evidence of it?

10 THE WITNESS: There was no evidence at all and it really was counter-productive to the reasonable doubt defence that we were trying to construct.

The best thing in the world for that defence was not to find the mystery man, to have him as a mystery
15 man and they kept saying, 'Well, we'll go out and find him and we'll, you know, we'll get the story'.

I kept saying, 'Listen, the odds are ninety-nine to one that there is a perfectly innocent explanation for this and if that's -- if your story is
20 that this is the guy that sabbotaged the beer, you don't want to find him.'

The worse thing in the world for this kind of a case, which is shakey at best, is to actually find that there is an innocent explanation for the man's presence.
25 He may have been an athlete left over from the morning.

Who knows?

Sometimes it takes quite a while to provide a urine sample, if you've had an exciting day.

5 MR. ARMSTRONG:

Q. All right. Now, I don't want to interrupt your chronology, but you did mention at some point, you had occasion to speak to Ben Johnson in the suite that afternoon as you interviewed people and prepared your defence. Can you tell us about that, please?

10

A. All right. The core group, as I mentioned, was Carol Anne Letheren, Stanish, Charlie Francis, Dave Lyon, the team leader, Jackson and Worrall and Don Wilson who was the security man.

15

We thought we should talk with Waldemar who was actually with Ben in the waiting room, so we called him in and got his story which was pretty much consistent with everything we'd heard.

20 Then we called Diane Clement who was -- has a very mother-like relationship with Ben Johnson in the competition aspect of his life. She came in and was basically so distraught that she would have said anything to make this problem go away and we determined that she could not add much to what we knew.

25

I got a call in the middle of all of this from somebody called -- I guess his name is Heidebrecht, Larry Heidebrecht. The call was put through to me and I answered the phone and said, "Hello?"

5 And this voice said who he was and it was not a name I recognized because I didn't know the entourage at that point and he said, 'They're not telling you everything.'.

10 I said, "What aren't they telling me?"
'Well,' he said, 'a couple of days ago when Ben came back from the track he had a bottle that wasn't his regular bottle of sarsaparilla and it had some white viscous liquid in it and something had been changed and then tampered with.'.

15 I said, "Well, that's very interesting." I said, "What did you do with this stuff?"

20 'Well, ' he said, 'We poured it out; we threw it away.' And I said that that was very helpful. And then he said, also, Ben got loose in the Toronto Hilton on Thursday night.

Q. Toronto Hilton? Seoul Hilton?

25 A. Seoul Hilton. Toronto Hilton is where I speak at lunchtime. In the Seoul Hilton, and they tracked him down and found him chatting with some of the local beauties with some champagne in his hand and they couldn't

account for his whereabouts during that time.

So, Heidebrecht thought I should know about this and that this was very significant. I thanked him for the information and sat down and I said, "I just had a
5 call from some guy called Heidebrecht. Who is he?" And they said that he was Ben's agent.

So we went on trying to put our chronology together and then we got a call from the lobby saying that Ben Johnson is downstairs and he can't get into the hotel
10 because he doesn't have the right accreditation. We thought, oh, God, why is he here? He's going to get the press even more into this because they were starting to nibble around at this point.

15

20

25

Anyways, so my wife went down to get him. She got him a pass into the hotel and, you know, stuck him in a corner of the elevator and stood in front of him so that nobody could --

5 THE COMMISSIONER: Was he alone or it doesn't matter --

THE WITNESS: I must say I can't remember, Mr. Commissioner.

THE COMMISSIONER: All right.

10 THE WITNESS: He was the only one who came to our room.

So, he came in and he sat in a chair and really didn't say much of anything. He just sat looking like a, you know, a dog who had been beaten and he didn't
15 know why.

And at one point, because of what Heidebrecht had said, I took him aside. Nobody else really knew what Heidebrecht had mentioned to me. I took him out of the sitting room and into the washroom off the
20 bedroom. And I said, "Listen, Ben, here is what this character has said. Can you tell me about it".

So, I described the Friday and the white viscous fluid and so forth, and did he remember that. "Well, he wasn't sure." I said, "Well this could be
25 important, I don't know, it's before the race and

therefore it isn't great." But I said, "Who gave it to you". He didn't know. I said, "Well, I mean, people give you bottles and you just drink out of them". And, "Well, he didn't know, he didn't remember what it was". And the
5 as far as getting loose in the Toronto Hilton, I --

Q. Seoul Hilton?

A. Seoul Hilton. One thinks of Toronto as the center of the universe, I guess --

Q. Only Torontonians; it's nice to hear
10 from a Montreal who does.

A. Toronto relatives. As far as getting loose with the champagne reception, that was he didn't think much of that. He just thought it was fun. And he was, you know, a little wound up, so, he wanted to have
15 some relaxation.

So, really there wasn't -- I just said, "Look, I am going to be your lawyer tonight, and it's -- we have got a tough evening ahead of us. I want to know anything you know that could help me." And he said,
20 "Well, you know --" he is very inarticulate, very hard to communicate with.

THE COMMISSIONER: Did you ever ask him whether he was on steroids or drugs or anything like that?

THE WITNESS: I didn't ask him that
25 question.

THE COMMISSIONER: All right.

THE WITNESS: In fact, by that time, you know, as a lawyer, I was -- thought I was better off not knowing.

5 THE COMMISSIONER: I understand.

MR. ARMSTRONG:

Q. All right. And so I take it you were satisfied from that discussion that there was nothing to be gained by pursuing whatever information Larry Heidebrecht had given you?

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A. No, no. I mean Ben was unhelpful. They indicated they had thrown away whatever it was.

THE COMMISSIONER: If there was anything.

15 THE WITNESS: If there was anything. And, you know, it was really not helpful. I still am not quite sure why I got the call.

MR. ARMSTRONG:

20 Q. All right. So, then, Mr. Pound, so far as the meeting in your suite is concerned, I take it we have covered the major parts of it quite apart from going through the placings and so on in the doping control room which I don't think we need to do.

25 A. No, if you have evidence that satisfies

you on the movements and the identification of this individual, I mean we couldn't even agree as to whether he was black or white, which gave me some concern. And the fact that we had a trained security officer in the room for most of the time, who didn't notice anything.

Q. Well, not only trained security officer, a trained member of the RCMP?

A. All right, yes, that was his --

Q. Yes.

A. He was an RCMP officer with a specific security arrangement. And at the time, we knew that there would be a lot of congestion and traffic and excitement and a need for Ben Johnson to have somebody trained in security with him.

He doesn't see anything at the time that causes him to be suspicious. It's a very, very tough case to take to the Medical Commission. And we certainly couldn't take Ben. I didn't want to take Charlie because -- well, for two reasons. One, is he had some kind of a toothache and he looked like death warmed over, felt like that, and my guess is that some of the pros on the Medical Commission might have had some difficult questions for him.

So, we eventually resolved to go with myself as the spokesman; Jim Worrall, as the other IOC member;

Roger Jackson, to show that we took, as an association,
took it seriously; the Chef de Mission, who has got the
line responsibility for everything that happens with the
team in Seoul; and Bill Stanish, as the Chief Medical
Officer.

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And we appeared at 10 o'clock that evening
in front of the Medical Commission.

I should say we got a very fair hearing.

MR. ARMSTRONG: I am just going to stop you
there for a moment, I don't know --

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THE COMMISSIONER: We will take five
minutes.

MR. ARMSTRONG: -- Mr. Commissioner, what
your view is.

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THE COMMISSIONER: We will take five
minutes or a little better.

--- Short recess.

--- Upon resuming.

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THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: Thank you, Mr.
Commissioner.

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MR. ARMSTRONG:

Q. Mr. Pound, I think we are ready to go into the -- or we are just into meeting at 10 o'clock on the night of the 26th in the Shilla Hotel with the IOC Medical Commission.

A. Right. We had finished up I guess about 7:30 or 7:00 in my room. And there was a dinner that I had to go to from 8:00 until 9:30, and I agreed that we would meet outside the room where the Medical Commission was meeting, that we would try and get there as unobtrusively as possible, because by now, especially with Ben Johnson having been seen in the hotel, the drums were really starting to beat. What we had told everyone to say is, no, no, he had just come down to be congratulated by his beloved IOC member, and it had nothing to do with the problem.

Anyway, at 10 o'clock, we assembled there and the full Medical Commission was in attendance, was presided over by Prince de Merode. All of the members of the doping subcommission were there, plus the members of the Commission at large. So, there would have been a group of about 25 all tolled.

THE COMMISSIONER: It's a big Court of Appeal.

THE WITNESS: It's a big Court of Appeal,

and one is never sure who is voting and what the question is, but we started off by thanking them for the opportunity to appear.

5 I said that I assumed -- I supposed we should assume that sample B had also tested positive. And they said we should assume that.

10 So, I explained that I had been asked to speak on behalf of the COA delegation as a member of the NOC, and as a past president. We introduced those that were there and including the Chief Medical Officer, Dr. Stanish.

15 We started off by saying that we were not here to challenge the scientific results of the tests other than we asked them to -- that we might come back on the fact that there were metabolites of this Stanozolol present in the urine, and we might want to talk about that, and the fast-acting nature of the drug later on.

20 We accepted for purposes of the hearing that the procedures, that is to say the provision of the sample, had been properly followed from the -- and particularly from the time of the provision of the sample up to and through the analysis. That is to say the procedures enabling the team to come forward, indicate whatever medications the athlete had been on, to be present at the opening of the B sample and thereafter.

25

We asked them for later note in the submission to recognize that the properties of Stanozolol were such that there was fast metabolization and that what were the particular properties of the substance in the sense of what they produced as far as the athlete was concerned.

We then addressed the principle basis for the appeal and that was one of security. I said that I appreciated that a group like this had probably heard a story like this many times before, and that I hoped they would be prepared to hear us out before deciding. We spent --

MR. ARMSTRONG:

Q. You didn't want a case-hardened judge, is what you were saying, I take it?

A. We had a number of -- I mean there is a pretty standard litany in any doping appeal, as I am sure you can imagine, you know, "it wasn't me", "it's impossible", "the test can't be right, it wasn't done properly", "the samples were tampered with", and so on.

We spent a fair amount of time going over the background to the race, the Johnson-Lewis race, the rivalry that had always been there, and the fact that not that it's Lewis and Johnson, but that it was a race which

is traditionally one of the most exciting in the Games. And in respect of which quite a lot of rivalry and interest had been created.

5 So that it was important in several respects, both inside the Games as really the premiere event of the track and field competitions, and outside the Games because more people than usual would have been interested in the outcome of it.

10 Our principle suggestion to the Commission, and I might say this is not a Commission in which you go in and bang the table and rip the sleeves out of your coat or anything like that. It's a very scientific group that is very concerned with its reliability, and it's very concerned about the Games, and what a test of this nature
15 probably meant.

In fact, I am sure that when they opened the -- they found that positive sample and then got the coding references and found out that it was Johnson's, they must have just about died.

20 But then as far as this is concerned, we said on this day for this race there was a sufficient breakdown in the security surrounding the doping station and the procedures for Johnson and possibly for others in the same race, that they should be concerned about whether
25 or not they could rely on the samples that were provided.

We indicated that we were prepared to produce evidence of persons who were unidentified and not accredited in the general doping control area. There were people looking for autographs, there were people looking to have their photographs taken, all of which are, at least in theory, not permitted in the doping station area.

We had reviewed the security with Don Wilson, who gave us a rough diagram as to the layout of the doping station.

I don't know whether you have had evidence on that or not.

Q. We haven't had a diagram of it, but we have had --

A. A description.

Q. -- a description of the general layout of the room.

A. And it's certainly clear that more people in the general doping station were there than ought to have been there if you had followed the accreditation guides that were in play in Seoul.

We had a kind of a dialectual discussion with members of the Medical Commission as to what was the doping control station, was it the overall area or was it simply that area where the urine sample physically provided. We had always thought it was the whole area.

The Medical Commission was saying, no, it's quite normal to have people in sort of the holding areas where people are waiting until they can produce a urine sample.

We said that on the basis of our
5 understanding of the accreditation guidelines, that the procedures were not followed, and that there were too many people around which might have provided an opportunity on this case that could cause them to doubt whether the -- whether they should rely on the samples.

10 And there I think is probably the best area as far as being a lawyer is concerned to say that, you know, there really were people that ought not to have been there.

We went through the chronology of events
15 that we had prepared during the afternoon which took us from 1:30 in the afternoon, which is the scheduled time for the final event.

We outlined for the Commission the number of
occasions on which there would have been an opportunity
20 for somebody in an unsupervised situation to tamper with the bottle that Ben used, the Sarsparilla. He certainly drank from that. We were satisfied from what we had heard from Don Wilson and from Diane Clement that Ben had drunk from this, both before and after the race. But we were --
25 we were also satisfied that we could follow the chain of

custody once the race was over. And, in fact, that bottle was provided to the Medical Commission as part of the material that was handed over prior to the opening of the B sample. And we offered to have that analyzed.

5 I believe it was subsequently analyzed as was the main holding bottle which they provided to me and which I kept in my room. And my information is that there were -- there was no trace of any anabolic steroid in either of the bottles.

10 Q. That's correct. And those substances indeed were taken back to London, were they not, and analyzed in the laboratory in which Professor Beckett does his work?

15 A. Yes. He was asked if he would run an analysis on them, which he did, and on which he has reported I believe to the Canadian Olympic Association as being negative.

20 We then discussed in so far as we could the effects as described to us by Charlie Francis of using Stanazolol. He said that it would -- Charlie, in his description, he talks like a pharmacist as opposed to a coach. He said that using Stanazolol would be contraindicated because of the causing of the stiffness. We described --

25 Q. That comes from long years of reading

the CPS.

A. Whatever. We described the symptoms, we described the effects, rather, and said that it did -- it would not make sense from our information for an athlete to use this substance immediately prior to a race where he should be loose, and that the medical Commission should ask itself about that. And also the fact that it was meant to be a fast-acting or decomposing or metabolizing drug which would be consistent with the ingestion of it after the race and prior to the provision of the urine sample.

So, we made those points and they were -- they listened to them. We also then gave the, you know, in the case -- in a case like this where there is any doubt, it ought to go to the athletic particularly a world and Olympic champion such as Ben Johnson.

Their followed quite an active discussion. I would say this took 40 minutes or so to through all of this quite an extensive discussion with the members of the Medical Commission about the doping control station.

Dr. Ljungqvist who was the designated officer responsible for track and field was there. And he wanted -- he was at pains to make it clear that the doping control station is where the sample is provided, not the holding areas, and that it's quite normal in major

competitions to have autograph seekers there and even to have photographs taken.

He regarded this as kind of an enlarged waiting room rather than the doping control station. Dr. Stanish was of a different view. And I must say the accreditation procedures in Seoul would have suggested a different view, but in the end we didn't think that anything turned on it.

At some point in the process, Dr. Donike broke into it, and it was really his first intervention of an active nature in the debate. And he said, "Mr. Pound, would you be interested in the scientific results of the tests". And I said that I thought I would, although I didn't think I would understand them, but our chief medical officer to my right would.

So, he read off a number of values, I guess, off the graphs or charts that they had, none of which meant anything to me. But I looked down to Stanish and I said "What have we heard?" And around that time we heard Donike say that the results would indicate that this was not a single application of the compound.

And around there, if you are in the legal business, you can hear a case starting to fizzle --

Q. Kind of walking away from you a bit?

A. Kind of got away. But we sojourned on

through to the end of it. There were further questions about the type of container that Ben had. There were questions about the, you know, what kind of fluid did he drink between the end of the race and the test. And the answer to that was some of the Sarsparilla compound and quite a number of beers, I gather to the point where he was less than himself at the press conference.

They reviewed with us the procedures. They said, are you "You know, your athlete was accompanied throughout the waiting after the race?" "Yes, he was." "And the forms, the procedural side of it, they were signed off on those as being satisfied?" "He was." "And his representative or representatives?" "Yes."

I mean our understanding was that it was the trainer Waldemar and, subject to what you found before, the information I had was that it was Diane Clement. She's a former president of the Canadian Track and Field Association, we would assume that she would have known what was going on. Don Wilson of the RCMP had been there. So, we didn't really think that there was much to go on in that area.

I also did mention, really as a last resort, and I made it very clear that I was extremely reluctant to do it, but in the interest of presenting a case as ably as I could without misrepresenting the facts, that there was

someone, the unidentified person, had been seen, according to our reports, later with Carl Lewis. And I said, I do not urge this on you for anything more than that you should have, you know, the full facts. And that if -- I was not sure whether this line would be pursued by Ben or his entourage, I said it would not be pursued by the Canadian delegation, but that they should know it, and that we were reluctant to put that forward and we hoped that it remained confidential unless it helped them in reaching a decision with respect to the reasonable doubt.

And we talked a little bit about Ben, very generally, because that's delicate enough just saying listen you people who are involved in athletics know him, you know what he is like, and I think that you should take whatever you know about him into consideration as you look at this particular issue."

And at that point, which by now is probably close to midnight, they say "Is there anything else you have to say?" And we said "No, I think we have given you our position." They said, "Fine, give us some time to think about it."

It took them, it seemed like forever, but it took them I guess an hour and a half or two hours to reach a decision on the issue.

Q. Having waited around in my day for the

odd jury to come in, you must have begun to think that you were going to do it?

A. Well, certainly with a case that was a weak as that, the longer it takes the group to decide the more you think perhaps you have found a responsive court.

It didn't take long to disabuse us of that. And when they called us in they simply said, you know, thank you, we have heard what you have to say. We would like to read to you the recommendation that the Medical Commission will make tomorrow morning to the IOC Executive Board, which they did.

And I think Carol Anne has read that into the record. So, you have that before you.

Q. Yes.

A. At that point, we slipped out a back way to conduct a post-mortem in the bar of the Shilla. We called up to my room where Charlie and some of the others had been waiting for the result, came down, told them what had happened.

And I must say it was the only visible reaction I ever saw from Charlie was when we said, "Charlie, what they said is it is not only was it there, but it's a long term use." He just sort of crumpled, and he just didn't say anything more after that.

We spent the next hour or so determining how

the COA should handle the situation in the morning. I said that in my view the IOC would support the recommendation of the Medical Commission, that they would treat Ben Johnson exactly the same way as any other athlete, you know, the same as the Bulgarian weightlifters and all the others, so that he would be disqualified. And I said it would not take long. There will be an IOC Executive Board meeting at 8:30, a press conference by 10 o'clock, and you should be ready to deal with it.

I thought we should get Ben out of town just as fast as we could. And we assigned Wilson to handle the liaison with the Korean security forces to make sure he could get to the airport and on to a plane without being mobbed, which they almost succeeded in doing. And the COA mission staff was to find whatever flights were going and to get him on them. Carol Anne Letheren was to go around and collect the medal and tell them. And she's given you her story of that.

On the following morning, we went to the Executive Board. It was after we dealt with the daily emergencies with the organizing committee, which was the standard morning practice. We had a closed session of the Executive Board. President Samaranch asked Merode to read the report, which he did.

I indicated that we had had an opportunity,

the Canadian delegation had an opportunity, a full
opportunity, to present the case on behalf of the athlete,
that we had every opportunity to put forward what we had
to say, and that I was satisfied that we had a fair
hearing from the Medical Commission.

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A. And on that basis, I was prepared to propose that we accept the recommendation of the medical commission to disqualify Ben and to recover his medal. And that's the way it went.

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MR. ARMSTRONG:

Q. Just the one or two questions I have now you have really answered, but that doesn't seem to deter me from asking such questions anyway, but I wanted to pursue it. As a lawyer, the time that you had available to you to prepare your case and present it to this IOC Medical Commission seems unbelievably short in terms of just a few hours. You have made it clear that you think you had the appropriate opportunity and indeed a very fair hearing, as you have said. Looking ahead, as it were, to another day, would you still be of that view, that even though there are only a few hours available to mount a case and present it, that that's the best way to go?

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A. I think so. Certainly in this particular case, going to the specific first, the more time we had, the worse our case would have become. I mean, we were much--we benefited at least as much from the time pressure as did the other side, if you like, the medical commission. In my view, given more time, we would

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probably have found the mystery man and found that there was a perfectly reasonable explanation for his having been there. I mean, there had been photographs taken of him beside Ben. It would have been easy to identify him and I could see that that aspect of a reasonable doubt going poof in front of us. So it was plenty of time. We had all the bullets we needed to shoot right there.

Q. I guess you had all your witnesses there, as it were, everyone who had been involved with Ben Johnson and Charlie Francis including, of course, both Ben Johnson and Charlie Francis?

A. Yes, and we had the added advantage of me being able to say what they would have said in a way that was most favourable, whereas if we had had time to call the witnesses by themselves and get them grilled a little bit by somebody else, my guess is that the whole thing would have unraveled much faster than the medical commission taking as fact the things I had said because I had said them. So I don't think the--yes, there was pressure, a certain compression of time, but it was more than enough in the circumstances.

I think when you are in the middle of an Olympic games, these things have to be decided quickly. You can't throw some doubt on the outcome of a particular event and solve it in six or eight months at the pace that

lawyers like to work normally.

THE COMMISSIONER: Did you say six or eight months?

THE WITNESS: Just about.

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MR. ARMSTRONG:

Q. All right. I withdraw the question that I asked earlier. I shouldn't have asked it. All right. Then I wanted to move along from the Ben Johnson story at the Seoul Olympics--

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THE COMMISSIONER: By the way, at this stage had you met Dr. Astaphan at all or discussed the matter with him?

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THE WITNESS: I have never met him and have never discussed it with him.

THE COMMISSIONER: All right, thank you.

MR. ARMSTRONG:

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Q. Then moving to the final area that I wanted to discuss with you, and that really is where is the IOC at the moment in terms of its doping-antidoping policy, and just let me preface the question by saying this. As you may know, we have had the advantage of having a number of witness, but in particular Mr. Makosky, the Assistant Deputy Minister for Fitness and Amateur

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Sport, who took us through a pretty detailed survey of the international scene and in particular the international scene in 1988 when a lot was happening in a very compressed period of time with the conference in Ottawa, the subsequent meetings following that conference and he had brought us up I think to the meeting in Vienna in December where ANOC I believe--

THE COMMISSIONER: They were the government meetings, weren't they?

THE WITNESS: Some of them were, Mr. Commissioner, yes. There were Some meetings within UNESCO and then meetings of sport ministers in Moscow.

MR. ARMSTRONG:

Q. In any event, I think on our record we are up to there and a desire to be right up to the minute on things. You are just back from Barcelona where again the issue of doping-antidoping was raised, and could you please just bring us up to date on that?

A. All right. As far as the background which you have, could I just reserve a little bit on what you have heard from Mr. Makosky. I will maybe check the transcripts and see whether that's in accordance with our understanding of the situation.

THE COMMISSIONER: Maybe you can review it

perhaps a little broader than that. Is that what you want?

THE WITNESS: I will bring you up to date with what happened in Barcelona. It's just that having
5 not seen what he said about the other meetings, I'm sure he is fine on government to government, but as far as the Olympic side of things, let me read that. If I have any concerns about what he said, then I can undertake to advise you.

10 What we did in Barcelona a couple of weeks ago is to prepare, we now being the Executive Board of the International Olympic Committee, is to prepare a draft agreement between the International Olympic Committee and the international sport federations governing the summer
15 Olympic sports. We did that because we were having a meeting with those international federations in Barcelona. The agreement will also apply in due course to the winter federations once we have our chance to meet with them. I do not have the text of the agreement before me. I will
20 certainly undertake to supply it to you, Mr. Commissioner, or to your counsel. It's being sent back from Barcelona with a lot of other material, but the objective was to reach agreement with the international federations that there would be a consistent list of prohibited substances
25 and procedures and that the authority responsible for

developing and disseminating that list would be the International Olympic Committee so we are trying to avoid the situation that happens all too often whereby something that is prohibited by the IOC is not prohibited, for
5 example, by cycling. There was a big scandal last year in the Tour de France because the International Cycling Federation was taking a long time to put on its list a drug that we had prohibited.

Q. And indeed I think the evidence in this
10 hearing is, but certainly it is so, that the winner of the Tour de France in fact tested positively for a drug that was on the IOC banned list but was not yet on the International Cycling Federation list?

A. That's exactly the point. So we wanted
15 to avoid that kind of difficulty. We wanted to make sure that the penalties for doping infractions were consistent throughout the international federations. There had been a great disparity between the international federations which creates difficulties in communication and
20 difficulties in perception as to how serious the international federations are about their anti-doping policy.

Q. So that in other words, if somebody has
a positive test for stanozolol in athletics and another
25 person has a positive test for stanozolol in cycling, the

penalties should be identical; is that the point?

A. That's our objective, yes. And you could have had in one sport a penalty of three months and in another sport life or two years or something like that. So we are trying to make those consistent. We wanted agreement with the international federations that they would not authorize the use of anything except IOC accredited laboratories for the tests both in competition and out of competition.

Q. All right.

A. And we wanted cooperation between the IOC, the international federations and the various national Olympic committees in testing for these substances and procedures. And there was another element, which I must say I can't recall offhand, but perhaps when I come back we can pursue that in some detail.

Q. All right. Taking the fourth point, that there be cooperation--

A. Involving not only the IOC and the IFs, but also the national Olympic committees, the NOCs, in having a program that covers testing both in competition and out of competition on a no notice basis.

Q. Thank you. That probably is a good point because--

THE COMMISSIONER: All right because I know

you have a speaking engagement. What time will you be free to come back?

THE WITNESS: To some degree I can control that because I'm the speaker, so I think I should be able to get back by 2:30 as long as the lunch is on schedule, Mr. Commissioner.

THE COMMISSIONER: Well, we will make it 2:30 and we'll read the rest of it here.

THE WITNESS: At least I get a meal there.

---Lunch adjournment.

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG:

Q. Yes, thank you. Now, Mr. Pound, going
5 over the draft agreement that was put before the meeting
in Barcelona two weeks ago or so, whenever it was, that
you were there, you have outlined four of the main points.
What was the initial reaction of the international
federations to the proposal that the--

10 THE COMMISSIONER: I'm not quite clear what
the four points were. Was there a doping control policy
in your four points and some program?

THE WITNESS: Not as such, Mr.
Commissioner. What it was was an effort to agree on a
15 standard list of--

THE COMMISSIONER: I have that, right.

THE WITNESS: -- doping. The standard--

MR. ARMSTRONG: Standard sanctions.

20 THE WITNESS: Standard sanctions, the use
of IOC accredited labs and a comprehensive program of
cooperation between the IOC and the international
federations and the NOCs for both competition testing and
out-of-competition testing.

25 THE COMMISSIONER: I see, but no specific
procedure recommended?

THE WITNESS: Not as such. No, that's a much more complicated package to put together.

MR. ARMSTRONG:

5 Q. All right. Well at the risk of sounding sexist, it sounds like motherhood up until now, which of course is good, but what was their reaction of the international federation to the proposal?

10 A. What we did was we decided on what we thought to be the minimum elements of an agreement on day one. The general assembly of the summer sports international federations were meeting in Barcelona at the same time so we gave that to them on day two for their meeting and then we had a joint meeting on day three.

15 During the course of day two, the international federations made a number of suggested changes and produced a new draft which they submitted at our joint meeting which in our view substantially watered down the thrust and the effect of an agreement.

20 When we saw this, it was not satisfactory to us, and a number of my colleagues were quite exorcised about it and we all passed notes along the table to President Samaranch saying if this is the deal these characters want to put forward at this time, it's not

25 acceptable to us and you should know that before you make

any statement indicating that the IOC is prepared to agree with it.

I was sitting beside Prince de Merode who saw all of these notes and he saw how we were marking up our respective copies of this draft. He was the one charged with bringing it forward to the international federations, and he was very eloquent and very persuasive in convincing the body of the international federations which were present that what they had proposed was neither acceptable nor workable. The result is I think we have a fairly good draft that contains some--

THE COMMISSIONER: Is this the third draft now; yours, theirs and the revised?

THE WITNESS: This would be now what amounts to a third draft because it's not exactly the same as the one we submitted to them, and I will undertake to supply that to the commission counsel, Mr. Commissioner.

THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

Q. And I take it, Mr. Pound, that the four points that you have outlined more or less remain intact in the third draft? Otherwise it would not have been acceptable to you and your colleagues?

A. That's right. I mean, they have tried

to water it down by saying -- instead of saying we agree to do the following things, their draft said, we agree to use our best efforts to reach agreements. We said look, what kind of nonsense is that. Either you agree or you don't agree. You're not going to use your best efforts to agree. Fish or cut bait.

Q. All right. Now let me just explore with you for a moment, if I can, this fourth point, the idea of cooperation between the IOC, the international federations and the NOCs, the national Olympic committees. When we called the first witness in this inquiry, it was Mr. Makosky who outlined the events on the international scene in 1988 and prior to that.

One of the things he said was that look, if there is going to be a successful dealing with the doping problem in sport, the organization that has to take the lead is the Olympic organization because it has the keys to the ultimate club, I think is the way he put it. The ultimate club of course being the Olympic Games. Now what about that? What about, for example, the International Olympic Committee being actually responsible as an independent agency, independent from government, whatever government, independent from sport, whatever sport, organizing, leading, running the doping program and in particular the testing of athletes? What if anything

would you have to say about that?

A. Well, I would say that that's a recognition. I can't compete with the inimitable style of Mr. Makosky in explaining these things, but we have been
5 out there since 1968 virtually alone in fighting against drug use in sport, and it's only been the International Olympic Committee, its position of moral suasion that has even convinced the international sports federations to adopt their own rules.

10 For a long time the only testing that was done was at the Olympic Games and we have cajoled and bullied and threatened and forced a lot of these international federations into having these medical commissions and adopting doping control policies. Our
15 experience has been that there is an uneven acceptance of that idea among the international federations and there are many that do it simply to get us off their backs, but they don't fully implement them and they don't really believe in them. They do it simply because they think
20 they would look bad if they didn't have a doping policy.

We have had--I mean, I have personally had conversations with the president of an international federation who looks at the doping control thing as some kind of an affront. He said these people sit in labs all
25 day and they are just looking to try and find a positive

sample. He doesn't understand it. That's really, yes, that's what they are doing. That's why they're there.

So I think in the long run it is the IOC that should be doing this. It's always a surprise to find
5 somebody who thinks, wakes up all of a sudden and says maybe the IOC should do this. We have, in fact, been doing it. There are a lot--we are here today. We are not here today because some athlete said, you know, I have had enough of this. There is too much drug use going on. I
10 want to tell it like it is and bring it all to the fore.

There was no national federation or international federation that did it. We are here today because the IOC will not tolerate, and we treat a gold medal winner in the premier event the same as we do any
15 other athlete that tests positive. That's why we are here. It's the focus that our actions have done on an athlete like Ben Johnson that has got world-wide attention on the drug problem.

Q. Let me ask you about the IAAF, the
20 international federation responsible for track and field. In 1987, there was a world championship in Rome, their second world championship, right?

A. Yes.

Q. Now was there some plan afoot prior to
25 the world championships in Rome to have either the IOC

Medical Commission or the IOC people, if I can put it that way, responsible for doping control in Rome in 1987?

5 A. Yes. Let me go back to the first world championships which were in Helsinki four years earlier in 1983. These championships took place without a single positive test reported, and all over the world people just shook their heads and said, you know, that's not credible. It's simply not credible, and there was quite a lot of pressure put on the IAAF to say look, you're in serious
10 danger of becoming a laughing stock here with this kind of result.

 So my understanding was that there is a laboratory in Rome that is accredited, and Professor Donike and Professor Beckett were going to be responsible
15 for the operation of that lab during the world championships in Rome four years later in 1987. I understand that for about two weeks prior to the world championships, they were removed at the request of presumably the executive of the international federation
20 and replaced with others who were not, I guess, at the same--let me back up. They were not members at that time at least of the IOC Medical Commission, and I think the man in charge of it was Dr. Ljungqvist who was, I believe, a vice-president of the IAAF.

25 Q. And in 1987 at the world championships

in Rome, do you recall how many positive tests did result?

A. There was a huge difference over 1983. They had one positive test.

Q. Those are all the questions I have for Mr. Pound. Thank you very much, Mr. Pound. I'm sure others do.

THE COMMISSIONER: Mr. McCreath, any questions?

10 EXAMINATION BY MR. McCREATH:

Q. Thank you, Mr. Commissioner. Mr. Pound, I just have one question really and it's a matter of clarification perhaps. It has to do with sanctions and the fact that we had several conflicting statements made after Ben Johnson was disqualified in Seoul, and I think immediately thereafter, within a day or so, the Minister of Fitness and Amateur Sport made a statement that he was going to ban Ben Johnson for life.

20 That was, as you know, followed by various other statements from the associations and the--including I guess the look at the sanctions that were now in place and they ranged I guess at that time from 18 eighteen to three years. That was confusing enough perhaps, but then recently I think in Barcelona where you were, Dr. Samaranch came out with a statement that pleased a lot of

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people that said that he would welcome Ben running again in the 1992 Olympics and that received a lot of attention in the media. Until a few days after that when the minister here in Canada again said - and I'm quoting out of context because I haven't really seen the quote and I wasn't there - something to the effect that I don't care what Dr. Samaranch says, I have banned Ben Johnson for life.

THE COMMISSIONER: In the absence of his successful appeal?

MR. McCREATH: Yes, I'm sorry, Mr. Commissioner, that's quite true.

Q. That with all respect, I don't think changes my question because my question, I guess, Mr. Pound, is what is the real position of the sanctions at the moment? Do we have or does the minister have the right to ban Ben Johnson for life? Has he got the jurisdiction to do that?

A. Well, where we are at the moment is that the IOC disqualified Ben Johnson in the particular event in which he competed, removed his medal and disqualified him for the balance of the games. The International Amateur Athletics Federation has in accordance with its rules suspended him for two years

because this is the first doping infraction at which he has been guilty.

Thereafter it becomes a little less clear. The Sport Canada policy, to which one assumes the minister is speaking, simply says that in the case of a positive test, an athlete will be denied further access to Sport Canada funding. In my view, Sport Canada and the minister do not have the jurisdiction to select athletes to Canadian teams. It would in the first instance be their responsibility of the Canadian Track and Field Association to nominate Ben Johnson as a member of its 1992 team, should it choose to do so, and for the Canadian Olympic Association as the National Olympic Committee, having the exclusive jurisdiction in this matter, to decide whether or not it wished to accept him as a member of the team. I do not believe there is any law or policy on the part of the Federal Government that would enable the minister to say what he has.

Q. Thank you, Mr. Pound. Those are all my questions, Mr. Commissioner.

THE COMMISSIONER: Mr. Bourque, do you have any questions?

EXAMINATION BY MR. BOURQUE:

Q. Thank you, Mr. Commissioner. Mr.

Pound, my name is Bourque and I represent the Canadian Track and Field Association. Did the statement by Dr. Donike at the medical commission hearing on September 26th that the scientific data indicated sustained use of
5 stanozolol or words to that effect take you and other members of the Canadian delegation by surprise?

A. Well, it certainly took me by surprise because I was there, as I have testified already, on the basis that Charlie Francis, his coach and the team leaders
10 all assured us that Ben was not on any prohibited substance.

Q. The scientific data you have referred to, was it requested by you or anyone else in the Canadian delegation prior to the hearing before the medical
15 commission?

A. No, not to my knowledge. It was not requested by me, and that was on the basis that we had elected to go to the hearing, not challenging the
scientific result.

20 Q. Can I ask you then on what basis did you make that decision, not having had an opportunity to review the scientific data?

A. On the basis of the advice of both the chief medical officer, and Charlie Francis was there, as
25 was Lyons, the team leader in athletics.

Q. Well, yes, but what did they tell you about the scientific data? Had they seen it?

A. I just said, are we prepared to try and challenge the scientific result of this test and everybody
5 said no, we are not.

Q. Well, was any consideration given to requesting an adjournment of the hearing until such time as you had got the evidence of the medical commission?

THE COMMISSIONER: Was the CTFA challenging
10 the test? I didn't think it was.

MR. BOURQUE: What I am getting at, Mr. Commissioner, is not specifically the case of Mr. Johnson but the procedure in general. We know a lot now that Mr. Pound didn't know at the time. I'm not trying to--

15 THE COMMISSIONER: I understand. I wasn't quite sure of the question.

MR. BOURQUE:

Q. In general though, would you not
20 consider it--let me rephrase it. In general, would you not consider it a more useful procedure to try and obtain that evidence before going to the hearing before the medical commission?

A. Well, the rules as prescribed by the
25 International Olympic Committee through its medical

commission specify what happens in the case of a positive test during the games. That is, you get a chance before the B sample is opened to be there or you get a chance to sign off on the procedure when you provide the sample.

5 You get a chance to be there before the B sample is opened, to provide any information you think might be helpful to the scientists who are analyzing the data. You get a chance to review the B sample, to see if it's what it purports to be, and then it's analyzed by a laboratory
10 accredited by us as the final arbitors on all Olympic matters, and we had no reason to believe and do not have any reason to believe that that analysis wasn't done in a confident, scientific method.

Q. All right. So in other words,
15 certainly in the case of Mr. Johnson's test in September 1988, you were willing to take that position, if I may put it that way, of the IOC Medical Commission at face value?

A. Yes.

Q. All right. I don't know if Ms.
20 Letheren was clear in her answer to me when I asked this previously. Is there a further avenue of appeal which can be made from the decision of the IOC executive branch in cases such as Mr. Johnson's?

A. No.

25 Q. Now just moments ago you testified

about the Rome 1987 World Championships of the IAAF, and you stated that the personnel of the IOC accredited lab in Rome headed by Dr. Donike was removed about two weeks prior to the meet; is that correct?

5 A. Yes, that's my understanding.

 Q. And you said presumably at the request of the IAAF. Do you know?

 A. That can be the only body capable of requesting a removal or enforcing a change.

10 Q. In any event, when you say forcing a change, would the IOC not have to agree to the removal of its staff?

 A. Not at all. You see, the world championships in track and field are the exclusive property of the International Amateur Athletics Federation. The IOC has no role in those championships whatsoever. We were prepared to make available professors Donike and Beckett to supervise the doping control, but that's all.

20 Q. It was an IAAF sanctioned meet, and as you say, the exclusive property of the IAAF?

 A. That's right.

 Q. So I don't understand then why, and perhaps I got the drift of your evidence wrong, but you seemed surprised that Dr. Donike would be removed and

25

supplanted by the IAAF medical testing staff. Why was that a matter of surprise?

A. It's a surprise because you have to go back to the background, which I have mentioned, which was Helsinki having no positive tests and the IAAF being under some pressure to rectify the perception that they really were not operating sensible doping controls. And you could not have done better in 1987 than to have Professors Donike and Beckett being your doping control officers. Their reputation is absolutely first class and world-wide.

Q. Is it your position then that if tests in track and field meets come up with no positive tests, even in 1983, an indication of sensible doping measures are not being implemented, dope testing measures?

A. My feeling is that, that at that meet, to come up with no positive tests indicates that something is very wrong with the testing procedure.

Q. Can you go further than that and tell us what in your view would be wrong?

THE COMMISSIONER: Well, he expects some tests to be positive, is what he said.

THE WITNESS: Well, there could either have been positive tests which were not acted upon by the International Amateur Athletics Federation or a direction not to test for certain compounds or substances.

MR. BOURQUE:

Q. Do you have any knowledge on that point, though?

A. I don't have specific knowledge. Mine would be largely hearsay. I would suggest that the best source of that information would be either someone from the Medical Commission or somebody from the IAAF.

Q. Such as Dr. Ljungqvist?

A. Dr. Ljungqvist could help you. Dr. Nebiola could help you. There is a vice-president in North America who has considerable knowledge in this area of the IAAF called Olan Castle.

Q. He's with -- or was with the Athletic

Congress in the United States?

A. I think he still is.

Q. Thank you. I have no further questions.

THE COMMISSIONER: Thank you. Mr. Levine, any
5 questions?

MR. LEVINE: Yes.

EXAMINATION BY MR. LEVINE:

Q. Mr. Pound, good afternoon. My name is
Lorne Levine on behalf of Dr. Astaphan. Just a couple of
10 points, if I might. I see from your curriculum vitae that
you've been -- you've been a member of the IOC, elected
Vice-President since 1987. Are you still a vice-president
of the IOC?

A. Yes, I am.

Q. And you've been a member, director and I
15 think executive committee member of the COA from 1968 to
the present time?

A. Correct.

Q. So, when you were in Seoul in 1988, could
20 you advise me under what capacity were you there? Were
there as a member of the IOC or of the COA? Like, did you
have a -- an official capacity there?

A. My official capacity at the games in
Seoul would be as a vice-president of the International
25 Olympic Committee.

Q. All right.

A. But one does carry one's history with one and I'm still a COA member and director.

Q. All right. And as a -- as a
5 vice-president of the IOC, would you have had any input into the ultimate decision to remove the gold medal from Mr. Johnson?

A. Yes.

Q. Sir, did you not consider yourself
10 perhaps to be in somewhat of a conflict being the head of his defence team, as it were, and at the time being on the decision-making body?

A. Yes and no. The appeal, as such, is made to the Medical Commission and I agreed, as I would in
15 almost any case, to do my best as a professional to help an athlete who is in trouble. We made our appeal there and said everything we had to say on behalf of the athlete. We were unsuccessful in persuading the Medical Commission that there was a reasonable doubt as to the
20 correctness of the result or the efficacy of the test.

That having been done, the Medical Commission made a recommendation to the Executive Board and sitting on the Executive Board, one might say I had a conflict but it was certainly in the past at that point.

Q. And we've used the word appeal. It
25

wasn't really an appeal per se, I would suggest to you, because there hadn't been any decision made as of yet. Is that not fair?

5 A. That is correct. The Executive Board acts upon the recommendation of the Medical Commission.

 Q. Yes.

 A. To my knowledge, it has never acted otherwise than in accordance with that recommendation.

10 THE COMMISSIONER: I think Mr. Levine is meaning the representations to the Medical Commission, is that what you're saying?

 MR. LEVINE: Yes, sir, yes.

15 THE COMMISSIONER: In a sense it's appeal because the finding had been made, the positive finding had been made.

 MR. LEVINE: Well, the finding had been made but only in the A sample, as the far as I understood. I stand to be corrected.

20 THE COMMISSIONER: No, the B sample as well. By the time they appear before the Commission, the B sample had been tested.

 MR. LEVINE: The B sample had already been?

 THE COMMISSIONER: Yes.

25 MR. LEVINE:

Q. I see.

A. Yes, I asked -- as they say in the television business, at the top of the show, may we assume that the B sample has also tested positive.

5 THE COMMISSIONER: Otherwise, it wouldn't have been pursued.

MR. LEVINE:

10 Q. All right. And I believe your evidence, sir, was that although Mr. Johnson was present in your hotel room at the time you were having your meetings to prepare for the hearing before the medical committee, and you had an opportunity to speak to Mr. Johnson, you didn't purposely -- you didn't ask him whether he had been
15 involved in the steroid use and I believe your expression was, you thought it was better not to know?

A. Well, that's -- in a sense that's right. What I asked him was about the two occasions that Heidebrecht had spoken to me directly about.

20 I gather in some of the other evidence that is before the Commission, others had asked Ben or Ben had stated that he was not on anything. I do not recall that.

What I didn't want to do, as a lawyer, was have Ben who's -- and I wasn't sure about the quality of
25 any judgment that he would make at that time -- say

something that would leave me -- let's say he said, for example, yes, I took something or other. Then I would have to go in front of the Medical Commission and basically lie about what the facts were.

5 And we had, by this time, worked up an avenue of approach which was casting some reasonable doubt on the general security in that area at the time.

10 Q. I appreciate, sir, what you're significant. But in effect aren't you putting yourself in an impossible position when you're in charge of the defence, say, of an individual and you yet -- yet you cannot -- or you choose not to ask that individual his version of events?

15 THE COMMISSIONER: Well, he's explained why, Mr. Levine.

 THE WITNESS: I think that's a perfectly sensible procedure for counsel to do in that circumstance.

 MR. LEVINE:

20 Q. In hindsight, sir, would you not think from this point in time that it might have been an idea for ---

25 THE COMMISSIONER: Well, please, Mr. Levine, that is so hypothetical, it would obviously depend on the answer that given. I don't think I would pursue that.

MR. LEVINE:

Q. The point I'm trying to make, sir, and I'm not trying to make any allegations against yourself, but I would suggest with respect that you found yourself
5 in an almost impossible spot being, on the one hand, Ben's counsel and, on the other hand, being on the decision-making body?

A. Not at all. Absolutely not at all.

Q. You don't agree with that?

10 A. I don't agree with that, no.

Q. And when you were before the medical committee and there was some conversations, I believe you said about what happened in the doping room and whether there was a possibility of a sabotage and that was ---

15 THE COMMISSIONER: Well, that was what was being presented to him on behalf of Mr. Johnson. He was taking the argument being urged by the entourage and presenting it to the Commission.

20 MR. LEVINE:

Q. Yes. And was there any evidence brought by anyone who had actually been in the doping room with Mr. Johnson at the time?

25 A. No. Our -- what we did was to go in front of the Medical Commission and say we are prepared to

bring evidence to this effect. We did not actually -- we didn't bring Ben, we didn't bring Charlie, we didn't bring the RCMP officer because, in my view and that's the call I made going in, that would not have been helpful.

5 Because I was afraid, and believe me, I had no personal stake in this, this is just as a lawyer -- I was very much afraid that there was a perfectly reasonable explanation for the so-called mystery man. And if somebody said, well, this is serious enough, let's find
10 this fellow and they found him and he said, no, you know, I was in one of the morning events and it took me three hours before I felt so inclined.

Q. So, are you saying, sir, that ---

 THE COMMISSIONER: We've already covered this,
15 Mr. Levine. I'm not sure exactly what Dr. Astaphan's counsel is doing at the moment?

 MR. LEVINE: Well, sir, I'm trying to -- I believe that part of your mandate and it would be to determine whether you're satisfied as to the ultimate
20 ruling in Seoul.

 THE COMMISSIONER: Yes and we've looked into it very, very carefully, as you know.

 MR. LEVINE: Yes. And what I'm attempting to get from this witness is perhaps that the whole procedure
25 carried out in Seoul, as far as the hearing or so-called

hearing that was -- taken place, was not as fair as it might have been from the perspective of Mr. Johnson.

THE COMMISSIONER: We've heard the evidence of that, Mr. Levine, in detail or what evidence there is.

5

MR. LEVINE:

Q. All right. Just -- and I won't spend very much of your time on that, just in relation to calling it a hearing, it wasn't a hearing under oath with any evidence, anything of that nature, is that fair?

10

A. No, that is correct.

15

Q. And, sir, has there been any thought on the level of the IOC of perhaps establishing a different type of appeal procedure where if there is such an accusation made against an athlete and knowing in -- particularly, in the case of Mr. Johnson -- but in the case ---

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THE COMMISSIONER: It's not an acquisition, it's the finding of a positive test.

MR. LEVINE:

Q. Well, whether there would be any -- is there any thought to having a different type of proceeding to lead to that conclusion?

25

A. No.

Q. For example, having a hearing under oath or having independent counsel, nothing of that nature?

A. No. Our view is that we provide a list of prohibited substances, for example. We have a
5 laboratory with which we're satisfied. The Olympics are in "our event" and if you test positive for one of these substances, basically it's for you to explain why you've tested positive.

Q. Yes.

10 A. And the athlete and his team officials are given every chance to do that and anything that is said is considered very carefully before a positive test is confirmed.

15 Q. And I think the expression was used, sir, that you would have tried to raise a reasonable doubt. Are you satisfied that if such a reasonable doubt had been raised, Mr. Johnson may not have lost the medal?

20 A. Had we been able to establish sufficient doubt in the minds of the Commission as to the sanctity of the procedure, I think the Commission would have -- would have reconsidered or at least considered a different finding, but it would have to be -- that would have been a very, very difficult case to make and everyone involved knew that. I think we made the case the best way we
25 possibly could and it fell short. And if you look at it

objectively, quite frankly, it had to fall short.

Q. Does the committee operate on the premise that an athlete, when he competes at the Olympic level, rather, is deemed to know what substances are banned and what are not?

A. Yes.

Q. And how is he deemed to know that?

A. He's provided and his team officials are provided with up-to-date lists. His entry form requires him to acknowledge that he's in compliance with the IOC medical code and, in the case of a Canadian athlete, we have a separate sign-off saying that he's aware of this plus the COA doping policy.

THE COMMISSIONER: Which we've already had exhibited, Mr. Levine.

MR. LEVINE: Thank you, sir.

THE WITNESS: No, it's a serious matter and we treat it seriously.

MR. LEVINE:

Q. Yes. And just one other point, sir, I believe your evidence was that in regards to the defence of Mr. Johnson, you considered that if there was any excuse to be raised, or any defence, it would have to be in relation to something that happened after the race.

That if there was a finding that he had the substance stanozolol before the race then it was effectively game over?

A. Yes.

5 Q. Is that fair? What is the position of the IOC when making that decision as to how far before the race? Say ---

10 THE COMMISSIONER: Please, Mr. Levine, let's not get into hypothesis. The rule is that -- Mr. Pound has explained the rule. I don't know what Dr. Astaphan's interest is in this, at all.

15 MR. LEVINE: Well, sir, what I was going to ask the witness is does the IOC look to see whether the athlete actually had the substance at the time of the race or does it make a difference if he had the history of the substance.

THE COMMISSIONER: Mr. Levine, the ban is, of steroids is, that you can't use it to enhance performance and that's during the training period.

20 The rule isn't that you just don't have to have it the day of the race. You know better than that. The steroid is used as part of a training program. It does you know good at all to have it in your system the day of the race.

25 All the test is, it indicates you've had use

before the race. The ban is not merely to have it in your system the day of the race, the steroid doesn't do you any good that day at all.

MR. LEVINE: I appreciate that, sir.

5 THE COMMISSIONER: We've heard for weeks and weeks now that the ban is used to enhance performance. You do that over a lengthy training period which you've heard of and the job has been done well before the race. The drug is done -- it's effect or it's intended effect.

10 So, I don't understand your question.

MR. LEVINE: Well, I was going to ask, sir, if there is any criteria ---

15 THE COMMISSIONER: You seem to have a theory that somehow the only ban is to have it in your urine the day of the race.

MR. LEVINE: No, I'm not suggesting that, sir, but what I'm asking is there any guidelines as to presuming ---

THE COMMISSIONER: What good does that do?

20 MR. LEVINE: ---say an athlete was found to have had this substance years before and then he stopped and he didn't have it anymore.

25 THE COMMISSIONER: Well, that's -- we'll come to that type of hypothesis some other time, not today. Any further questions?

THE WITNESS: Can I just add a footnote, Mr. Commissioner, just so that there is no doubt as to what the IOC rule is.

The IOC rule is that if you do not test
5 positive at the time the sample is taken during the games, there is no basis for disqualification.

THE COMMISSIONER: I understand.

THE WITNESS: Now, what we had done here, in
our ---

10 THE COMMISSIONER: That's not what the ban is. That's not what the Sports Canada ban is. You're not allowed to use it.

THE WITNESS: That's right. But Sport Canada is Sport Canada.

15 THE COMMISSIONER: In other words, let's assume that in the -- you fill out your medication form, right, before you go to the doping control room, right?

THE WITNESS: Right.

20 THE COMMISSIONER: And you say I've been taking all these steroids?

THE WITNESS: Right.

25 THE COMMISSIONER: And it's right there in your own admission. But because you know how to mask it or you've had enough clearance time or you've used diuretics or other procedures, you can safely take the

test. We've heard that over and over again.

Now, are you saying that you can still win a gold medal, is that what you're saying?

5 THE WITNESS: I'm saying that that would not produce a positive test and therefore, we would not, under our rules disqualify ---

10 THE COMMISSIONER: Then your post-competition testing, it would appear to me to be quite -- you know, we've heard for weeks now that -- what steroids are all about and how you use them, right. And you use them over a period of time with an increased training program.

15 But we also heard and many athletes who have testified, they admit they've taken them for years and they've never proven positive because they know the clearance times or the masking agents or other methods to avoid detection like catheters, like we've heard in weightlifting.

20 So, that -- if the IOC, the only -- the only policing, if you like, the athlete does is after competition testing, it's quite apparent, is it not, that it's not very useful?

25 THE WITNESS: Well, it's useful in one sense. I mean, it's a new area and I would think that -- and perhaps you should ask one of the witnesses who is familiar with the field or perhaps one of your advisors,

but I think that over time we will be able to develop a body of data on suppression, for example, of the adrenal function as an indication of steroid use during training.

And when the data are reliable enough for us to be able to look at a profile, at depressed adrenal function profile, to say this is kind of a profile is consistent with steroid use during a training period ---

THE COMMISSIONER: No, but I understand. I'm now having an athlete who is going to be perfectly frank and say, yes, I've been taking steroids up to the race of September the 24th. I took steroids on September the 2nd. I've been using it for three or four months or several years before, right?

THE WITNESS: Yes.

THE COMMISSIONER: But he's been advised by those close to him that either because of the clearance time or because of masking agents or because of diuretics or other procedures, on September 24th you can pass that test.

Go in and admit what you've been doing but you'll pass the test even though you've taken the steroids, you've got all the benefits of the drugs, and if you pass the test then you're not disqualified. That's a strange proposition to make.

THE WITNESS: Well, the basis for ---

THE COMMISSIONER: Because we know that many athletes over the years have been able to avoid detection after competition and you must know that, too?

THE WITNESS: That's certainly what we're
5 finding out, yes.

THE COMMISSIONER: Well, I would have thought you would have found out a long time before this.

THE WITNESS: Well, you can suspect but
10 proving it is a different kettle of fish. Don't forget, as far as the IOC is concerned, we see these athletes for two weeks out of a four year period. Three years, eleven months, two weeks, we don't see them.

THE COMMISSIONER: I'm just thinking out loud
15 a bit about the efficacy of post-competition testing which apparently is the only determining factor in your judgment?

THE WITNESS: Let me put it this way. In the
20 case of steroids, it is not ideal. And as I think as data are developed and experienced is developed over the years, we may be able to use a profile rather than a mere positive test of a steroid.

In a lot of the other drugs, the so-called
25 race day drugs, the stimulants or the depressants and other drugs that are being used, the testing at the time of competition is essential because that's when ---

THE COMMISSIONER: What worries me, there seems to be a conflict, because if you read Sports Canada's directives to their athletes, as part of their contract, that they're not allowed to be in possession of
5 or use steroids. That's obviously designed long before any Olympic competition. That's what they're directing; that's what they're supposed to have in their contract.

Because the steroid is part of an -- enhancing your performance long before the competition. It's not
10 like an amphetamine which you might pop in your mouth on the day of the race and get some stimulus out of it.

But, you put them in same category as a drug taken the very day of the race, I think.

THE WITNESS: NO, I don't put them in that
15 category, Mr. Commissioner. All I'm saying is that, obviously, the scientific data are not yet reliable enough to enable us to use a profile which indicates -- which we think indicates steroid use as a basis for disqualification.

THE COMMISSIONER: I think you said that one
20 of the matters which rather disturbs you in making your representation to the IOC Medical Commission was the statement made by Donike, I guess it was, that this indicated long-term use?

THE WITNESS: Yes.
25

THE COMMISSIONER: All right.

THE WITNESS: Yes. And what he did was that -- that was a one-two punch. I mean, first of all, there was a positive test in Seoul.

5 And, secondly, the defence that we had been putting up on the basis that we had an athlete that was not using this stuff, was doubly false because they could tell that the whole adrenal function had been suppressed and therefore it was an indication of considerable
10 long-term use.

THE COMMISSIONER: I'd like to discuss this with you at another time, perhaps some further ---

THE WITNESS: I see.

THE COMMISSIONER: I'm now trying to think
15 through some of the matters which were being raised. Any other questions?

MR. LEVINE:

20 Q. One more short point, sir. I believe your evidence was that you did not speak to Dr. Astaphan in Seoul and, in fact, to date, have never spoken to Dr. Astaphan?

A. Your memory is perfect.

25 Q. Were you aware that Dr. Astaphan was in Seoul and was Mr. Johnson's physician?

A. Yes.

MR. LEVINE: Thank you.

THE COMMISSIONER: Mr. Futerman?

MR. DePENCIER: Mr. Chairman, if I might, I
5 have a couple of questions arising out of Mr. McCreath's?

THE COMMISSIONER: All right.

MR. FUTERMAN: I'm in your hands, sir.

THE COMMISSIONER: In this little discussion
I've had, I've got no firm views on it, Mr. Pound. I'm
10 just trying to think out loud because this has been a
puzzling problem for us.

THE WITNESS: Mr. Commissioner, it's a very
tough one and there is not going to be a one line solution
to it.

15 THE COMMISSIONER: All right. Go ahead, Mr.
DePencier?

MR. DePENCIER: Thank you, Mr. Commissioner.

EXAMINATION BY Mr. DePENCIER:

Q. Mr. Pound, my name is Joseph dePencier
20 and I'm here for the Federal Government and for Fitness
and Amateur Sport.

I'm just putting in front of you Exhibit 37
and I'd like to ask you a couple of questions arising out
of comments you made in response to Mr. McCreath
25 concerning the Federal Government policy.

Now, I believe that you're aware of Exhibit 37 which is the Sport Canada policy on anti-doping?

A. I have seen it but not recently.

Q. And are you aware that that policy has
5 been in effect since September 1985?

A. Generally, yes.

Q. And I think you mentioned in response to
Mr. McCreath that your basic understanding of the policy
is that if an athlete is caught with a positive test that
10 he may have his eligibility for funding from the Federal
Government withdrawn?

A. Yes.

Q. And are you aware also, that the policy
goes further and talks about the withdrawal of indirect
15 funding to athletes?

A. Perhaps you could point out this?

Q. Yes, if you turn to the 5th page of text,
under the heading violations and sanctions, you'll see the
first paragraph, paragraph one small A? And you may just
20 want to read that quickly?

A. Right?

Q. And would you agree with me that it talks
about the withdrawal of eligibility for direct funding and
withdrawal from eligibility for any other financial or
25 program support provided directly to athletes or

indirectly by Sport Canada via national sport organizations; i.e., national championship funding, national team program support, et cetera?

A. Yes.

5 Q. And are you aware of the evidence that we've heard earlier at this Inquiry that the direct support to athletes, the athlete assistance program, is a small portion of the overall Sport Canada expenditures on an annual basis?

10 A. Yes.

Q. And that there is a great deal of money that is spent through grants and funds to national sport organizations for their national teams, for their championships and that sort of thing?

15 A. Yes.

Q. Which benefit athletes?

A. Yes.

20 Q. And if you'll look further down on that page at paragraph 1-c, I think it's a paragraph that describes the lifetime suspension from eligibility and steroid use?

A. That's the one following that, yes.

25 Q. Yes, and the one following that, it's broken into two parts, and it talks about a lifetime withdrawal from the eligibility for federal, indirect or

direct funding, for all federal government programs or benefits?

A. Yes.

5 Q. And, I think, would you agree with me that this policy speaks to more than just direct funding to an athlete?

A. Yes.

10 Q. Now, just finally, you mentioned in talking about the IOC sanctions, that it's important, in your view, that there be consistent sanctions, consistent treatment for athletes who test positively?

A. Yes.

15 Q. And that it -- that it's important -- it was important in your case that Ben Johnson be treated as would any athlete who tested positive?

A. Yes.

20 Q. And would you agree with me that -- that it would be important that the Federal Government sanctions would also be applied uniformly to all athletes who fall under that program or that policy?

A. That's for the Federal Government to determine but I wouldn't have a problem with that concept.

25 Q. But you would agree with me that the federal policy should be applied consistently to athletes who tested positive?

A. Depending on where you're going with this. I would agree with the concept, yes.

Q. That consistent application of policy --

A. I think consistency is a desirable quality.

MR. DePENCIER: Thank you. Those are my questions.

THE COMMISSIONER: Thank you. Mr. Futerman?

MR. McCREATH: Would you leave that with him, Mr. DePencier?

EXAMINATION BY MR. FUTERMAN:

Q. Good afternoon, Mr. Pound. I represent Ben Johnson. First of all, from all that I've heard on behalf of Ben Johnson, I believe that you did a first class job on his behalf at the Medical Commission of the hearings so we have no problem with that.

THE COMMISSIONER: Well, you could have mentioned that outside of the room and had a chat with Mr. Pound.

MR. FUTERMAN: No, no, but I want him to know that. I wanted him to know that.

THE COMMISSIONER: It's not necessary here. It's quite apparent that he did the best he could.

MR. FUTERMAN:

Q. Mr. Pound, is Ben Johnson a man in your opinion that would let others others in his circle control his life?

THE COMMISSIONER: How well does he know him, Mr. Futerman?

MR. FUTERMAN:

Q. Perhaps I can ask him this as well. The reason I ask him that, sir, he's purported to have made some statements in that regard in the past.

THE COMMISSIONER: I didn't ask know that.

MR. FUTERMAN:

Q. And perhaps I can ask him about that specifically. For example, sir, I believe after Seoul, and it might have been at Seoul, you're purported to have made the following statement and perhaps you can tell me if it's accurate to the best of your recollection.

In reply to that specific question, you answered, I'm advised, "Well, in the sense that he would have had total confidence, the way he would if he were a child and a parent, and a child and a teacher at school, and he would have never have thought that anybody would have done to him something that would put him at risk everything he worked for"?

THE COMMISSIONER: What was the question asked, I'm sorry?

MR. FUTERMAN: Is Ben Johnson a man that would have let others in his circle control his life.

5 THE COMMISSIONER: I see.

MR. FUTERMAN:

Q. Do you recall that question and do you recall giving an answer ---

10 A. Something like that. It sounds like a television interview.

Q. Yes, I believe this was the CBC Journal interview?

15 A. Well, you could always find what I said. That sounds like something I probably would have said.

Q. Is that something that you believed at the time you made that statement?

A. Absolutely.

20 Q. Mr. Pound, from your knowledge of Ben Johnson, do you have any opinion as to his capacity to understand and deal with the issue of anabolic steroids?

25 THE COMMISSIONER: Well, capacity to understanding isn't a real issue. Did he or did he not understand? Capacity is one thing and capacity to understand is another.

MR. FUTERMAN: Well perhaps.

THE COMMISSIONER: It's quite an important distinction.

5 MR. FUTERMAN: Perhaps we can deal with Ben's capacity specifically as you understood from your meetings with Ben.

THE COMMISSIONER: To do what?

10 MR. FUTERMAN: To understand generally, forgetting about the issue of anabolic steroids, what was your impression of his capacity to understand generally?

THE COMMISSIONER: Generally what? I'm sorry, I don't mean to interrupt. I don't understand the question. I don't understand generally what, though?

15 MR. FUTERMAN: Generally to understand -- I'm talking in terms of Ben's ability to comprehend and understand any issue that this witness might be talking to him about, and specifically anabolic steroids, if he's in a position to comment on that?

THE COMMISSIONER: Steroids?

20 MR. FUTERMAN: Can you comment on that?

THE COMMISSIONER: I don't understand. Are you competent to answer that question?

THE WITNESS: Well, I'm not sure. I guess that's really for you to judge, Mr. Commissioner.

25 I've only met Ben three or four times. The

first time that I spent any time at all with him was in Rome at the World Championships in 1987.

Thereafter, he visited the IOC headquarters during an Executive Board meeting and was presented to the IOC Executive Board.

And I guess the next time, involving any real exposure to him, was in Seoul during the afternoon that we were trying to put humpty-dumpty back together again.

My impression of him, and let me stress it's an impression of just my impression, was that -- that he was in a situation where there was a great deal of trust placed by him in the people around him. He is not somebody who would have been out negotiating appearance fees and which meets he ran in and what planes he would be taking and what kind of a training program he would be on, or anything like that.

I had the impression of somebody with great faith in the people around him.

I did not have the impression of anybody who would have understood the nature of an anabolic steroid or anything like that. I can remember talking with some people in -- in Seoul and saying to them that I thought if we were dealing with a crime instead of a doping offense, that we would, in the case of Ben Johnson, have the actus reas but that the mens reas was elsewhere and that's my

impression of the -- of what happened.

We had the guilty body in Ben, he tested positive, and for that he had to pay the price. But it's my view, and it's a view shared, I know, by President Samaranich, that perhaps those that are the most implicated are the people around him.

MR. FUTERMAN: Thank you, Mr. Pound. Those are the questions I have, sir.

THE COMMISSIONER: Thank you. Mr. Pratt?

MR. PRATT: No, I don't think so, Mr. Commissioner, thank you.

THE COMMISSIONER: Any re-examination, Mr. Armstrong?

MR. ARMSTRONG: Mr. McCreath might have some.

THE COMMISSIONER: I'm sorry, were you examining after Mr. McCreath, I'm sorry.

EXAMINATION BY MR. McCREATH:

Q. I'm sorry, but now that Mr. DePencier has put in Exhibit 37, Mr. Pound, you read one section and the other was explained to you.

But, both of these refer to sanctions and program money, program funding, would be banned for life.

I ask you again, funding is not the issue here. I think Dr. Samaranich said they would be pleased to

have Ben run in the 1992 Olympics.

5 This government here, in Canada, does not have
the sanction ability, other than funding, and they could
not stop Ben from running in the 1992 Olympics, could
they?

10

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A. I rather had the impression that
counsel for Sport Canada was walking up to the edge of a
diving board in which he was going to say that because the
Federal Government may put some money into Olympic teams
5 that they are really national programs and therefore --

THE COMMISSIONER: No, I think what he is
referring to and there is some correspondence, rightly or
wrongly, I think the national organizations there is one
letter suggests that if they -- if they contravene the
10 Sports Canada policy that their own funding may be in
jeopardy. That is the funding of the sports organization.

THE WITNESS: In other words, if --

THE COMMISSIONER: I don't know. I think
that's what --

15 THE WITNESS: I am not sure what he was
getting at --

THE COMMISSIONER: That will be clarified
later. We will call somebody back. We never have pursued
exactly what this status is and we will do that again.

20 MR. McCREATH: Thank you.

THE WITNESS: That would be helpful
because my impression was that --

THE COMMISSIONER: I am not sure exactly
what Sports Canada's statement means in relation to
25 running again in the Olympics. We will check on that.

THE WITNESS: It is certainly ambiguous.
So, it would be nice to know what Sport Canada thinks it means before responding.

MR. MCCREATH: Thank you.

5 THE COMMISSIONER: Any re-examination, Mr. Armstrong.

MR. ARMSTRONG: I just have a couple of questions.

10 --- EXAMINATION BY MR. ARMSTRONG:

Q. You say, Mr. Pound, that you have only met Ben Johnson three or four times?

A. Yes.

Q. The first time was in Rome in 1987?

15 A. Yes. When I say meet, I mean one has shaken hands in a line or in a crowd, but I mean the first time I spent any time with him would have been in Rome.

Q. What was the occasion in Rome in 1987?

20 A. That was -- we helped him get in to a part of the stands where he wasn't getting mugged after he set the world record.

25 The 100 meters was early on and every time he went in to the stands there were hundreds and thousands of people swarming to get at him and he was really in some physical danger and certainly was disorientated by it.

So, we helped get him into the so-called VIP area and had a chance to talk with him a little bit about the race and how he felt and that sort of thing.

5 Q. And certainly when you talked to Ben Johnson about track and field, there is not much difficulty in talking to him about track and field, is there?

A. I found him tremendously inarticulate, even about the race and so forth.

10 Q. Well, of course, regretablely he has that unfortunate stammer that --

A. Well --

Q. -- he is hard to talk to from that point?

15 A. I think it's not just -- my impression was that it was not just the stammer, but that does not help him at all, I agree.

Q. He attended an IOC Executive Board meeting. When was that?

20 A. I am trying to think. It would have been after the World Championships in Rome. So, maybe December, early December. And he was -- he was in Lausanne for some purpose. And let me check on that. I mean, I know when the date was and I have even got a --

25 THE COMMISSIONER: I don't think the day is

material.

MR. ARMSTRONG: No.

THE WITNESS: He appeared in front of the Executive Board and the President had him up to give him a little momento of his visit to Lausanne, and we all had our pictures taken, and we chatted, however difficultly, for a couple of minutes.

MR. ARMSTRONG:

Q. A couple of minutes on that occasion?

A. Yes.

Q. And going back to Rome, what period of time were you talking to him then?

A. Fifteen minutes.

Q. Then you said three or four times. I take it the third occasion was the time you talked to him in the bathroom of your suite at the Shilla Hotel in Seoul?

A. Yes.

Q. Was there a fourth time or --

A. No, I think that's the main one.

Q. All right. Now, going to the circumstances at the Shilla Hotel, as you gave us the picture there that afternoon, there were I take it a number of people who were -- or some people who were not

being all that articulate and not thinking that straight;
is that not so?

A. They were overly articulate, they just
couldn't keep their stories straight.

5 Q. But, for example, you mentioned Diane
Clement who was somebody with whom you were finding
difficult communicating on any sensible level at that
point, quite understandably because she was very upset?

A. Yes. It's not the same.

10 Q. All right.

A. I appreciate what you are trying to get
at. I mean, she was defending -- she was a mother
defending a cub who was in trouble and would have done or
said anything to help.

15 Q. In any event, your conversation with
Ben Johnson that day was, I take it, in the room was to
review with him the question about the water bottle and
the question about drinking the champagne with the ladies
on the Thursday night in Seoul before the race?

20 A. That's right. The only other thing I
did was observe him during the course of the afternoon,
and he was there for a couple of hours, I guess.

MR. ARMSTRONG: Fine, thank you.

THE COMMISSIONER: Thank you. Thanks, Mr.

25 Pound.

We will take five minutes. Do you have another witness this afternoon?

MR. ARMSTRONG: Yes, I have.

THE COMMISSIONER: We will just take five minutes then. Thank you very much, Mr. Pound.

--- Short recess.

--- Upon resuming.

MR. ARMSTRONG: Yes, sorry.

THE COMMISSIONER: Yes, Mr. Armstrong.

MR. ARMSTRONG: Thank you, Mr.

Commissioner. Our next witness is Andrew Higgins.

THE COMMISSIONER: Thank you.

ANDREW JAMES HIGGINS: Sworn

--- EXAMINATION BY MR. ARMSTRONG:

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: Yes, thank you.

MR. ARMSTRONG:

Q. Mr. Higgins, I would like to review with you your background. I understand that you were born in Dryden, Ontario, but spent your formative years in the metropolis of Diamond, Ontario, somewhere near Diamond,

north of Lake Superior?

A. Yes, I did.

Q. You then attended high school in Dryden, Ontario, where you were a member of the football, basketball, and track teams; is that correct?

A. Yes.

Q. Then you attended the University of Toronto in the golden years beginning in 1956, graduating in 1959 with the degree of Bachelor of Physical Health and Education, in '59?

A. Yes.

Q. Then you did a further year receiving your BA in 1960, and going on to what I guess today is known as teachers college, what you and I of our generation knew as OCE and got your teachers certificate in 1961?

A. Yes, I did.

Q. Okay. And then at the University of Toronto, you were the CIAU wrestling champion of 1959, you played inter-faculty football. You were also an active basketball player playing for the Toronto Township -- Toronto Township Saints, which won the Ontario championship in 1959; is that correct?

A. Yes.

Q. When you left the University of Toronto

and then OCE, you began your teaching career in the fall of 1961 at Northern Secondary School where you taught for three years, mainly physical education, but also I understand you had four periods of counselling which led to a whole new career for you in the future, as it were?

A. Yes, I did. It was a fortunate circumstance in many regards.

Q. Then from 1964 to 1971, you were a teacher at Monarch Park, which was a new school in the east end of Toronto?

A. Yes, at Danforth and Coxwell.

Q. And there you were involved in football, crosscountry, track and field, and basketball again; is that right?

A. Yes.

Q. Then outside of your high school duties, you in 1965 became associated with the East York Track and Field Club, which is the track and field club often known as the club initially coached by Mr. Fred Foote, the coach of Bruce Kidd and Bill Carruthers and others; am I right about that?

A. Yes.

Q. All right.

A. That was another fortunate circumstance for me.

Q. All right. Then in 1971, you moved to the University of Toronto where you were invited to go by the then athletic director Mr. Dalt White; is that correct?

5 A. Yes.

Q. What were your initial responsibilities at the University of Toronto?

A. To coach track and field and wrestling.

Q. And --

10 A. And to -- that was my primary responsibility. I taught in the school of physical and health and education as well, a number of activity courses.

15 Q. And indeed over the years, you have taught at the University of Toronto a number of courses in track and field activities in track and field, strength testing, and a first year introductory course in the phys. ed. program. Am I correct?

A. Yes.

20 Q. And today at the University of Toronto you still teach a coaching course?

A. That's the only course I teach in addition to coaching.

25 THE COMMISSIONER: What course is that you are teaching still?

THE WITNESS: It is a coaching course in track and field.

THE COMMISSIONER: Thank you.

5 MR. ARMSTRONG:

Q. All right. Now, when you went to the University of Toronto as a wrestling and track coach, I take it it wasn't too long before you were completely subsumed in track and field activities. Is that right?

10 A. Yes, that was my goal. I told Dalt that when I went there that -- university people tend to have long memories and they remembered me as a wrestler. And I hadn't been involved with wrestling for 10 years, and it didn't make any sense. Wrestling had changed, the sport had -- when I wrestled, it was NCAA rules, it was a
15 different game than the Olympic rules which was then, in 1971, in effect in universities.

And so what really happened, I coordinated the wrestling program for the first year that I was there. I learned a lot from the wrestlers and found somebody else
20 to take my place next year and that was the end of it.

Q. All right.

A. I worked only with track and field after that.

25 Q. So, then presumably since about 1972

you have been involved almost entirely then in your professional career with coaching, teaching track and field?

A. Exclusively.

5 Q. Okay. Yes, okay. Now, we have heard in the evidence in passing, and I regret to say at this late stage only in passing, but it's not too late of something called the University of Toronto Track and Field Club.

10 Can you tell us what the University of Toronto Track and Field Club is, what its genesis was and so on, please.

A. Well, briefly it is a track program to -- to meet the needs of the university and the
15 community. And as has been stated, I worked with Fred Foote of the East York Track Club starting in 1965. And we were at East York stadium. The facility was maintained by the community. And for one reason or another, the track, cinder track required a lot of grooming, and it was
20 getting less attention. And the track was becoming less and less safe.

So, we put that together. And Fred, by the way, had been for a number of years a part-time coach involved with the fall outdoor program that then existed
25 at the universities -- at the University of Toronto.

And so --

THE COMMISSIONER: As well as his own club?

THE WITNESS: Exactly. And what he had done is he -- his deal was he would work with the university
5 program in exchange for the handful of his athletes who were not University of Toronto students, because Kidd and Carruthers and Bailey and a number of others were University of Toronto students, but the exchange was that the others would then also be able to come in in the
10 wintertime and use the Hart House track.

So, that was the deal he had. He would coach their team in the fall if he could use the facility in the wintertime.

Q. Okay.

15 A. So, he had been around there for along time.

So, when I got the job full time, Fred and I discussed it and it only made sense in light of what was going on at the East York and our situation at U. of T.
20 that we take everything downtown and stay there year-round and give up the name East York Track Club, which was not an easy decision because it was a name that was recognized throughout the world, really, with the results of Kidd and Carrothers particularly.

25 So, we --

THE COMMISSIONER: Because of who? Kidd
and Carruthers? Bill Carruthers?

THE WITNESS: Bill Carrothers, Bruce
Kidd.

5 THE COMMISSIONER: Yes. Thank you.

THE WITNESS: And so we did that. I
spoke with Dalt and said that I felt that it made a lot of
sense. If we were going to develop a good program to have
something going 12 months. And I felt the university had
10 an obligation, by the way, with staff and facilities to
offer something to the community, because we could do
something that would be very good for both, for the
community and for the university.

And Dalt said go do it. And all he did
15 after that was support me in every way possible. We just
did it. We formed the University of Toronto Track Club in
1971.

And other than myself, being a staff member,
everybody associated with it after that was in one way or
20 another a volunteer receiving small honoraria or none
depending on how the finances were that year.

And the first person to get any sizable
honoraria was Zoltan Tenke when he joined us -- the first
time he probably got any money of any consequence was
25 probably about '75. And we just began a process of trying

to add coaches.

Q. In those early years, what did you do to raise funds, raise money for the organization, for the club?

5 A. What every struggling amateur sport organization in the country does do. We had runathons. We didn't have bake sales, that was about the only thing we didn't do.

Q. Right.

10 A. And I -- we didn't have a bingo, and not that we didn't investigate the possibility, but it was just wasn't possible to get a bingo licence.

Q. Yes.

15 A. And after we gave that a lot of thought over a period of time and it didn't make a lot of sense with the --

THE COMMISSIONER: Mr. Earl had a monopoly on that, I guess.

20 THE WITNESS: No, there were a lot of other people had all the licences, though. But we did -- we did thing like runathons, ran road races, and looked after road races for other people.

25 In the last number of years, we have done casino nights, all the things you have to do to try to get enough money to keep an organization in amateur sport

alive.

MR. ARMSTRONG: All right.

THE COMMISSIONER: Were you funded by the University of Toronto as well, though, is that --

5 THE WITNESS: No, not -- no, the funding from the University of Toronto covers the intercollegiate program. And, therefore, the money goes directly to that program for which I am also responsible, but it is designated and must be used only for the intercollegiate
10 activities.

In fact -- in fact, we have to stretch funds and bring some in from our sources to make that program as effective as it is.

15 But the University of Toronto in many ways did -- does contribute in a very big way with facilities and office space and telephones and kinds of things that are that are costly, but in terms of poor cash which you need to run a program, we had to hustle all of it.

20 MR. ARMSTRONG:

Q. And today what are your -- what kind of facilities do you have at the University of Toronto?

25 A. We have got excellent facilities with the exception of the track in Varsity Stadium which I have said jokingly we better replace quickly or the historical

board may keep us from replacing it forever.

Q. So, at Varsity Stadium then just a stone's throw away from here, you have got an old cinder track. I assume you have got jumping pits over there and so on?

A. Yes. We have got good jumping facilities and we have -- we are able to throw. Those are not problems. But sprinting and hurdling become serious problems. We travel to the Metropolitan Toronto Track and Field facility outdoors. Sometimes we use the Central Technical School track outdoors.

Q. Yes.

A. And indoors we have got very good facilities.

Q. All right. And indoors do you have 200-meter track?

A. Uh-huh.

Q. And jumping facilities, throwing facilities indoors?

A. Yes, we throw into the nets, there is no problem. Indoors we are in a good situation. And it's our saviour by the way, not because as you can tell by being outside the last while, it's fortunate we have indoor facilities.

Q. Exactly. Now, what is the relation at

the moment of, if there is one, of the University of Toronto track and field club or organization with the Canadian Track and Field Association. Are any of you employed by, paid by, subsidized by the Canadian Track and Field Association?

A. Yes. I can't tell you the exact date but back in the mid seventies, Zoltan Tenke became the first shared coach.

This was a concept of Gerrard's that at the time made a lot of sense and finances being available, it still makes a lot of sense. And that is the Canadian Track and Field Association came with a certain amount of money, and if I remember correctly, the very first year it was something like seven or \$8,000.00. And the deal was that we had to match it. So, the coaches being shared.

And since that time, there have been other shared coaches. And at the current time, starting in 1985, we have become a national center. At that time, I was named the center coach, because with all the center criterion I was the only person who qualified to be the center coach. So, I had to be the center coach.

And for the monies available, \$27,000.00, I was not about to give up what I had to take an one-year-by-year-if-the-money-is-available kind of contract.

So, the arrangement we came to was that the CTFA bought \$27,000.00 worth of my time.

Q. Yes.

5 A. And the University used that money to pay other people to do the things that I had been doing in that time, some of the teaching, and some responsibility around the Varsity team, those kinds of things.

10 At the same time, they entered into shared coaching agreements with two other coaches. And since that time, they have fully picked up in terms of \$27,000.00, which is a subsidy, as you know, in any job, it's not a salary, Bogdan Poprawski, and Carl Georgevski our jumps coach, and he was the national coach, is funded by Province of Ontario through the Ontario Track and Field
15 Association.

Q. So, I haven't quite got it. Are Poprawski and Georgevski, are they also subsidized to the tune of \$27,000.00 each by the CTFA?

A. Georgevski, Carl.

20 Q. Yes.

A. By OTFA, from the province. And Bogdan from CTFA.

Q. I see. Now, a moment ago you discussed --

25 THE COMMISSIONER: Are they also on the

staff of the University of Toronto or are you the only one that's still -- you are a professor at the University of Toronto?

5 THE WITNESS: No, I am a coach at the University of Toronto.

THE COMMISSIONER: That is paid -- that's paid by the University of Toronto?

THE WITNESS: Yes. And Zoltan Tenke --

10 THE COMMISSIONER: They contribute to your salary, that goes to U. of T.; is that right?

THE WITNESS: Yes.

THE COMMISSIONER: With that they use money to cover work that you would otherwise do.

15 THE WITNESS: Yes. So, the money comes back to help subsidize the other coaches. So, that's the shared coach arrangement.

THE COMMISSIONER: I understand.

20 THE WITNESS: Okay. U. of T. is using that money to enter into a shared coach agreement with the other two coaches to bring their salaries to \$27,000.00, and the rest to bring them to a slightly above poverty level of living in this city at this time, is generated by the University of Toronto track club.

25

MR. ARMSTRONG:

Q. Now, a moment ago you mentioned the University of Toronto set up as a national center. I take it that it is a high performance center in that kind of terminology that we have been using here for the last two or three months, that it is a designated high performance center by the CTFA?

A. Yes, it is.

THE COMMISSIONER: What about Sports Canada? It is by Sports Canada, I think.

THE WITNESS: Well, I guess all the money, Mr. Commissioner, does come from Sport Canada, but it comes through CTFA and CTFA makes the decisions as to where the center is going to be and who they are.

THE COMMISSIONER: Thank you.

MR. ARMSTRONG:

Q. All right. Then can you help us as to the set up as it is at the University of Toronto so far as the high performance center is concerned. We know for example at York about the high performance center in so far as it relates particularly to the sprints.

What about the University of Toronto, do you concentrate on a particular event or do you cover the events right across the entire sport of track and field?

A. Well, we aren't able right now at a high performance level to go right across the board. We have -- we have high performance athletes in the combined events and decathlon and heptathlon; and middle distance running with coach Peter Pimm; in high jumping, with Carl Georgevski; in long and triple jump with Zoltan Tenke; and in throws with Bogdan Poprawski and his assistant, who is a volunteer coach, Ian Cooper. But we don't have high performance sprinting or hurdling at this time or pole vaulting.

Q. All right. Now, in addition to the coaches that you have mentioned, let's just if we can just cover those in one place.

There first of all is you, as I would describe you as the head coach, but you coach also the decathlon and the heptathlon?

A. Yes.

Q. And then Carl Poprawski, he coaches the throws?

A. Well, you have got a bit of a hybrid there. Bogdan Poprawski coaches the throws, and Carl Georgevski, the high jumpers.

Q. High jump, okay. Then Zoltan Tenke was the other full time coach you mentioned. He is the long jump and triple jump?

A. Uh-huh.

Q. And you added a name a moment ago, Peter Pimm. Is he part time or full time?

5 A. Well, he is -- he is a full time coach having to support himself to a large degree in other ways as well. It is fortunate he is in the middle distance area where the one-to-one time with athletes is not so time intensive as it is in a technical event where a whole lot of time has to be spent on skill work. So, he is
10 able to work with well with high performance middle distance runners as people like Doug Clement, who is a medical person, does on the west coast.

Q. All right. Then, Mr. Higgins, your part time coaches are Ian Cooper in the throws; Bruce
15 Smith in the sprints; then I can't read my own writing or I can't pronounce it, Ross?

A. Yes, Ross Ristuccia.

Q. Ristuccia, middle distance?

A. Yes.

20 Q. And then Frank Mann, is he also a middle distance coach?

A. Middle distance coach.

Q. And all of those individuals assist you on a part time basis?

25 A. Yes.

Q. Okay. All right. Now, of the number of athletes that you have at the high performance level at U. of T. approximately how many are there?

5 A. Well, in the junior national team espoir, which are people who are not senior team, but they are not juniors any longer. They are high level people caught in between the system, under -- so, an espoir has to be under age 23 to be identified as an espoir and hopeful athlete. And senior team members. We had about
10 32 people I think last year in the program who represented the country at one level or another. We had nine -- at the top end, we had nine Olympians and a medal.

Q. All right. And of that --

15 THE COMMISSIONER: In 1988, you had nine Olympians, in '88?

THE WITNESS: Yes.

THE COMMISSIONER: What medal did your people win?

20 THE WITNESS: David Steen won a medal in the decathlon.

THE COMMISSIONER: Yes, indeed.

MR. ARMSTRONG:

25 Q. And then of the 30 or 32, how many are carded?

A. I think we have about nine or so athletes this year. I would have to get out a piece of paper and write it down exactly. I may be one of the worst statistical people around.

5 Q. All right. I will help you a little bit from the information you gave -- you gave to me the other day. Moving along, of the just below the high performance athletes of those athletes that you have got at the club level, who are 18 years of age and over, you told me the
10 other day that you had estimated about 50 or 60 in that category?

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A. Yes, I would say there is about--that's correct.

Q. And then your Junior Development Program, you have a group of 13 to 17 years old and about
5 100 or so in that program?

A. Our Junior Development Program has about 100 athletes from September through until about the end of April, at which time we really want them to--and we see those two times a week and hope--and encourage them,
10 by the way, to participate in other activities at school. It gets really vital at that age, but at the end of April, we stopped our program because at that point we want them to participate full-time in their school track program and we won't start ours up again until after the high school
15 provincial championships. But in the summer program that we run in conjunction with the Toronto Board of Education, last year we had about 250 youngsters between the ages of 13 and 17, and I would guess this year we are going to have closer to 300.

20 Q. And then you have an even younger group, do you not, who participate in summer camps, about 100 kids between the ages of 8 and 12?

A. About that, yes.

Q. And you mentioned that the University
25 of Toronto program produced nine athletes and one medal

for the Canadian Olympic team. Apart from the number of athletes, you also had some coaches, including yourself, who were part of the coaching contingent of the Canadian Olympic team?

5 A. Yes, we had four coaches.

 Q. And who were they, please?

 A. Bruce Smith, Carl Georgevski, Bogdan Poprawski and myself.

 THE COMMISSIONER: And what part of the
10 athletic team were you assigned to for Seoul? Was that--

 THE WITNESS: The only thing I do. I was responsible for the combined events, for decathlon and -- well, decathlon only this time. We did not have a heptathlete on this team.

15 THE COMMISSIONER: So Mr. Steen was there really under your direction at that time?

 THE WITNESS: Yes, David Steen and Michael Smith.

 THE COMMISSIONER: All right.

20 MR. ARMSTRONG:

 Q. Now, Mr. Higgins, this might be a useful time to just ask you a question or two about the decathlon. As I understand it from our discussion the
25 other day, it takes place over a two-day period and there

are five events one day and five events another day; is that correct?

A. Yes, that's correct.

Q. And on the first day of the decathlon,
5 there is the 100 metres, the long jump, the shotput, the high jump and the 400 metres. Have I got it right?

A. Yes.

Q. And then on day two, you've got 110
hurdles, the discus, the pole vault, javelin, 1500 metres
10 and you added to that on my list, doping control; is that correct?

A. Yes.

THE COMMISSIONER: What's the last one?

MR. ARMSTRONG: Doping control.

15 THE WITNESS: And when you go to major games, you hope the doping control comes about not because of random.

MR. ARMSTRONG:

20 Q. All right. Then the decathlon is an event in the Olympics that is for the men only, right?

A. The women's event is heptathlon. It's seven events, 100 hurdles, high jump, shotput, 200 metres day one; and a long jump, throw javelin, run 800 metres
25 day two. It's a little different than the men's event.

It's much more power-oriented.

Q. And that's an event that came in after the 1980 Olympics, the heptathlon?

A. That's right. In 1980 and prior they had done various combinations of the pentathlon, five events.

Q. All right. Now in regard to indoor competition, what are the analogous events to the decathlon and the heptathlon indoors?

A. Well, the women do a pentathlon and it's very similar and they do it in one day, and men do pentathlons, but the international championship event is a seven-eventer and it's basically like the first day of the decathlon. They run 60 metre sprint and long jump, put shot and high jump and there is no running event. That's the first day. The second day they run 60 metre hurdles, pole vault and run 1,000 metres. The intent is to keep it as close as you can to what the athlete must do and maintain the diversity.

Q. And then just to clarify matters for our purposes, there is something called a modern pentathlon which you explained to me on Friday has absolutely nothing to do with the sort of events that you coach, and that involves some other events?

A. Yes, that's true. It grows out of the

military history and it has nothing to do with track and field.

THE COMMISSIONER: Well, it's amazing because it's cross-country skiing and shooting. Is that
5 the one I'm thinking of?

THE WITNESS: No, that's the biathlon. The modern pentathlon is the old--it's based on the story of the military messenger horseback rides, he loses his mount, has to fight with his sword, -- I mean, he shoots
10 his gun, loses his gun, has to fight with his sword, swims across the river and goes for a run and so there is--it's pretty demanding, but there is a number of events in there that make it very difficult to be a mass participation activity, particularly the fencing and horseback riding.

15

MR. ARMSTRONG:

Q. So the modern pentathlon then is riding, shooting, fencing, swimming and cross-country?

A. Yes, and it has nothing to do with
20 track and field.

Q. All right. Then, Mr. Higgins, I wanted to ask you some questions now based on your knowledge and experience in track and field over the years about track and field and drugs.

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THE COMMISSIONER: Perhaps this would be a

good time to break.

MR. ARMSTRONG: Yes, it would.

THE COMMISSIONER: All right. Tomorrow
morning at 10 o'clock.

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---Commission adjourned.

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